

HOUSE No. ####

By Speaker DiMasi of Boston, petition of Salvatore F. DiMasi, Brian S. Dempsey and Daniel E. Bosley for legislation to establish the green communities act of 2007 through the development of a comprehensive energy policy for the Commonwealth. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE GREEN COMMUNITIES ACT OF 2007.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 91 of chapter 6 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 20, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 2. Section 16G of Chapter 6A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking in lines 19 through 20, inclusive, the following words:- "the department of telecommunications and energy,"

SECTION 3. Said section 16G of said chapter 6A, as so appearing, is hereby further amended by striking out, in line 21, the following words:- "the division of professional licensure and the division of energy resources" and inserting in place thereof the following words:- the division of professional licensure.

SECTION 4. Section 18D of said chapter 6A, as so appearing, is hereby amended by striking out, in line 46, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 5. Section 18E of said chapter 6A, as so appearing, is hereby amended by striking out, in line 3, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 6. Section 18F of said chapter 6A, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 7. Said section 18F of said chapter 6A, as so appearing, is hereby further amended by striking out, in line 6, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 8. Section 18H½ of said chapter 6A, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 9. Said section 18H½ of said chapter 6A, as so appearing, is hereby further amended by striking out, in line 8, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 10. Said section 18H½ of said chapter 6A, as so appearing, is hereby further amended by striking out, in line 18, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 11. Said chapter 6A of the General Laws, as so appearing, is hereby further amended by inserting at the end thereof the following:-

Section 104. As used in sections 104 through XX, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Department", the department of transportation oversight

"Director", the director of the department of transportation oversight.

Section 105. (a) There shall be within the executive office of transportation and construction, but not subject to the control of said executive office, a department of transportation oversight which shall be under the supervision and control of a director. The director shall be appointed by the governor and shall be a person of skill and experience in the field of transportation. The director shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the provisions of law relative to the

department and to each administrative unit thereof. The director shall serve at the pleasure of the governor, shall receive such salary as may be determined by law, and shall devote his full time to the duties of his office. In the case of an absence or vacancy in the office of the director, or in the case of disability as determined by the governor, the governor may designate an acting director to serve as director until the vacancy is filled or the absence or disability ceases. The acting director shall have all the powers and duties of the director and shall have similar qualifications as the director.

(b) The director may appoint such persons as he shall deem necessary to perform the functions of the department, provided that the provisions of chapter 31 and section 9A of chapter 30 shall not apply to any person holding any such appointment. Every person so appointed to any position in the department shall have experience and skill in the field of such position. So far as practicable in the judgment of the director, appointments to such positions in the department shall be made by promoting or transferring employees of the commonwealth serving in positions which are classified under chapter 31, and such appointments shall at all times reflect the professional needs of the administrative unit affected. If an employee serving in a position which is classified under chapter 31 or in which an employee has tenure by reason of section 9A of chapter 30 of the general laws shall be appointed to a position within the department which is not subject to the provisions of chapter 31 of the general laws, the employee shall upon termination of his service in such position be restored to the position which he held immediately prior to such appointment; provided, however, that his service in such position shall be determined by the civil service commission in accordance with the standards applied by said commission in administering chapter 31. Such restoration shall be made without impairment of his civil service status or tenure under section 9A of chapter 30 of the General Laws and without loss of seniority, retirement or other rights to which uninterrupted service in such prior position would have entitled him. During the period of such appointment, each person so appointed from a position in the classified civil service shall be eligible to take any competitive promotional examination for which he would otherwise have been eligible.

Section 106. The department shall perform such functions in relation to the administration, implementation, and enforcement of the department's authority over transportation including, but not limited to, the authority granted by chapters 159, 159A, 159B, 160, 161, 161C, 161D, 162, and 163.

Section 107. The director shall have and exercise supervision and control over all the affairs of the department and shall preside at all hearings. In the hearing of all matters other than those of formal or administrative character coming before the department any such matter may be heard, examined and

investigated by an employee of department designated and assigned thereto by the director. Such employee shall make a report in writing relative to every such matter to the director for his decision thereon. For the purposes of hearing, examining and investigating any such matter such employee shall have all of the powers conferred upon a commissioner by section 109, and all pertinent provisions of said section shall apply to such proceedings.

Section 108. When so requested by any party interested, the department shall rule upon any question of substantive law properly arising in the course of any proceeding before the department, and any party interested aggrieved by such ruling may object thereto, and may secure a review as hereinafter provided. Any failure or refusal of the department to rule upon such question at or prior to the entry of a final order or decision shall be taken and recorded as a ruling adverse to the party requesting the ruling. An appeal as to matters of law from any final decision, order or ruling of the department may be taken to the supreme judicial court by an aggrieved party in interest by the filing of a written petition praying that the order of the department be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the department within 20 days after the date of service of the decision, order or ruling of the department, or within such further time as the department may allow upon request filed prior to the expiration of the 20 days after the date of service of said decision, order or ruling. The department shall serve such decision, order or ruling upon all parties in interest by mailing, postpaid, within 1 day of its being entered, and service shall be presumed to have occurred in the normal course of delivery of such mail. Within 10 days after such petition has been filed, the appealing party shall enter the appeal in the supreme judicial court sitting in Suffolk county by filing a copy thereof with the clerk of said court, and shall file therewith a certificate that he is of the opinion that there is such probable ground for the appeal as to make it a fit subject for judicial inquiry and that it is not intended for delay; and double costs may be assessed by the court upon any such party whose petition shall appear to the court not to be a fit subject for judicial inquiry or shall appear to be intended for delay.

The record on appeal shall include 1 copy of the petition of the appellant or other original papers, and of the decision, order or ruling of the department; and if and to the extent that either the department or the appellant or any other party to the proceedings so requests within 20 days from filing the petition for appeal with the department, it shall include 1 copy of the exhibits and documents introduced in the proceeding before the department, of the official report of the proceedings and of the findings of fact of the department. The department shall make an estimate of the expense of the preparation and transmission of the

necessary papers and copies of papers aforesaid, and shall give the appellant notice in writing of the amount of such estimate. The appellant, within 20 days after the date of such notice from the department, shall pay to him the amount of such estimate and such further amount beyond such estimate as the department shall find to be then due for such preparation. The department then without delay shall prepare the papers and copies of papers aforesaid for transmission, and when they are ready shall give notice in writing of such fact to the appellant who, within 5 days after the date of such notice, shall pay to the department any balance then due therefor. The record on appeal shall then be certified to the supreme judicial court by the department. The department or the supreme judicial court or any justice or judge thereof may for cause shown extend the time for doing any of the acts required by this paragraph. The supreme judicial court may order the transmission of the original or a copy of any paper not appearing in the record, or appearing therein in an abbreviated form, if at any time such omitted paper or any omitted part of such abbreviated paper becomes material.

Each claim of appeal shall set forth separately and particularly each error of law asserted to have been made by the department. Upon the entry of the appeal it shall be heard and determined by the court, which shall have jurisdiction to affirm, modify or set aside such decision, order or ruling of the department in whole or in part, or remand the proceeding to the department with instructions subject to review by the full court upon appeal.

Any decision, order or ruling of the department shall be effective and may be enforced according to its terms and the operation or enforcement thereof shall not be suspended or stayed by the entry of an appeal therefrom. The procedure before the court, except as otherwise set forth herein, shall be that prescribed by its rules, which shall state upon what terms the operation or enforcement of the decision, order or ruling shall be stayed. Any stock, bonds, debentures, convertible debentures, coupon notes, notes or other evidences of indebtedness issued pursuant to and in accordance with a decision, order, or ruling of the department shall, if issued more than 60 days after the date of service of such decision, order or ruling, be valid and binding in accordance with their terms notwithstanding such decision, order or ruling of the department is later modified or set aside in whole or in part unless the operation or enforcement of such decision, order or ruling has been suspended or stayed by the court prior to such issuance.

The burden of proof shall be upon the appealing party to show that the decision, order or ruling of the department appealed from is invalid.

No evidence beyond that contained in the record shall be introduced before the court, except that in cases where issues of confiscation or of constitutional right are involved the court may order such additional evidence as it deems necessary for the determination of such issues to be taken before the department and to be adduced at the hearing in such manner and upon such terms and conditions as to the court may seem proper. Whenever the court shall order additional evidence to be taken, the department shall promptly hear and report such evidence to the court so that the proof may be brought as nearly as reasonably possible down to the date of its report thereof to the court. The department may, after hearing such evidence, modify its findings as to facts and its original decision or orders by reason of the additional evidence so taken, and it shall file with the court such amended decision or orders and such modified or new findings. If the department shall modify or amend its original decision or orders, the appealing party or any other party aggrieved by such modified or amended decision or order may file with the court, within such time as the court may allow, a specification of any errors of law claimed to have been made by the department in such modified decision or orders, which specification of errors shall thereupon be considered by the court in addition to the errors of law asserted in the claim of appeal.

Any proceeding in any court in the commonwealth directly affecting an order of the department, or to which it is a party, shall have preference over all other civil proceedings pending in such court, except election cases.

The supreme judicial court shall also have jurisdiction upon application of the department to enforce all orders of the department.

Section 109. In all investigations and inquiries authorized by law to be made by the department and in all proceedings before it the director may summon witnesses, administer oaths and take testimony. The fees of such witnesses for attendance and travel shall be the same as for witnesses before the superior court and shall be paid by the commonwealth upon the certificate of the department filed with the comptroller. The fees of such witnesses need not be paid or tendered to them prior to their attendance and testimony. Subpoenas may be issued at the instance of a complainant, respondent or any other party to any proceeding before the department under such rules as the department may establish, in which case the cost of service and the fees of witnesses shall be borne by the party at whose instance the witness is summoned, and such fees shall be paid to the witnesses as provided in the case of witnesses before the superior court.

Section 110. The executive office of transportation and construction shall promulgate, in accordance with chapter 30A, rules and regulations for the

transportation by rail of hazardous materials in the commonwealth. Said regulations shall be consistent with any federal regulations in effect.

Section 111. The department shall issue, following public hearings in accordance with chapter 30A, rules and regulations for the enforcement of section 33A of chapter 164.

Section 112. Except when a fee is required by another provision of law, and except in the case of a filing by the commonwealth or any of its political subdivisions, the department shall, in the following instances, charge and collect fees as determined annually by the commissioner of administration under the provision of section 3B of chapter 7:

1. For filing a tariff having intrastate application only, schedule or amendment thereto, or a contract filed under section 7 of chapter 159B, and for filing an application for a permit for special service, under section 11A of chapter 159A; and
2. For any other approval or authority of the department.

The undersecretary shall designate one employee to receive all fees collected under this section who shall give bond to the state treasurer in the sum of \$10,000.00.

Section 113. The director may assign to all officers and employees appointed or employed under the preceding section such duties as it shall from time to time deem advisable, but all acts of such officers and employees shall be done under the supervision and control of, and subject to revision by, the director.

SECTION 12. The General Laws are hereby amended by inserting after Chapter 6A the following chapter:-

CHAPTER 6C
EXECUTIVE OFFICE OF ENERGY AFFAIRS

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Administrative unit”, any department, agency, commission, office, board, division or institution within the executive office.

"Agency", the Massachusetts Development Finance Agency established pursuant to [section 2 of chapter 23G](#) of the General Laws.

"Bonds", when used in reference to the agency, any bonds, notes, debentures, interim certificates, or other financial undertakings for the purpose of raising capital, including, but not limited to, lines of credit, forward purchase agreements, investment agreements and other banking or financial arrangements, issued by or entered into by the agency.

"Chairman", the chairman of the public utility commission established pursuant to section 62.

"Clean Energy", any renewable energy facility, energy efficiency measure, combined heat and power facility, distributed generation facility, demand response measure, vehicle fuel efficiency measure, and alternative fuels for motor vehicles.

"Commission", the public utility commission established pursuant to section 62.

"Contested on-the-record proceeding", any proceeding before the commission to which there is a right to intervene and in which an intervener disputes any material issue, any proceeding initiated by the filing of a motion or petition with the commission, or any proceeding initiated by the commission on its own motion or in response to a filing; provided that the term shall not include notice-and-comment rulemakings or investigations, proceedings not having a party or parties, or any proceeding in which no party disputes any material issue.

"Decisional employee", an employee of the executive office or any administrative unit thereof, or contractor, who is or may reasonably be expected to be involved in the decisional process of a proceeding, but does not include an employee designated by the commission as a settlement officer appointed in an alternative dispute resolution proceeding, or an employee designated as being non-decisional in a proceeding.

"Director", the director of the office of ratepayer advocacy.

"Energy conservation", shall include, but not be limited to, the modification of or change in operation of real or personal property in a manner likely to improve the efficiency of energy use, and shall include energy conservation measures, and any process to audit or identify and specify energy and cost savings.

“Energy conservation measures”, measures involving modifications of maintenance and operating procedures of a building or facility and installations therein, which are designed to reduce energy consumption in such building or facility, or the installation or modification of an installation in a building or facility which is primarily intended to reduce energy consumption.

“Energy conservation projects”, projects to promote energy conservation, including but not limited to, energy conserving modification to windows and doors; caulking and weather stripping; combined heat and power facilities; insulation; automatic energy control systems; hot water systems; real time metering; equipment required to operate variable steam, hydraulic, and ventilating systems; plant and distribution system modifications including, but not limited to, replacement of burners, furnaces or boilers; devices for modifying fuel openings; electrical or mechanical furnace ignition systems; utility plant system conversions; replacement or modification of lighting fixtures; energy recovery systems; cogeneration systems and any other measure the secretary may otherwise determine.

“Energy efficiency”, the implementation of an action, policy, or measure which entails the application of a lesser amount of energy required to produce a desired or given output.

“Energy management services”, a program of services, including energy audits, energy conservation measures, energy conservation projects, or a combination thereof, and building maintenance and financing services, primarily intended to reduce the cost of energy and water in operating 1 or more buildings, which may be paid for in whole or in part, by cost savings attributable to a reduction in energy and water consumption which result from the services.

“Energy management systems”, the design and installation of systems or maintenance programs to conserve energy use within a building including, but not limited to, performance-contracting energy saving projects; the installation or modification of new and existing equipment which will reduce energy and water consumption associated with heating, ventilation, and air conditioning system, lighting system, building envelope, domestic hot water system, and other energy and water using devices.

“Executive office”, the executive office of energy affairs.

“Financing document”, an instrument entered into by the agency with one or more persons pertaining to the issuance or securing of bonds or the application to the purposes of the agency of proceeds of bonds or other funds of the agency. A financing document may include, but need not be limited to, a

lease, installment sale agreement, conditional sale agreement, mortgage, loan agreement, trust agreement, security agreement, letter of credit, reimbursement agreement, or currency or interest rate swap agreement. A financing document may also be an agreement between the agency and a lending institution which has agreed to make a loan to a user to finance a project.

“Governmental bodies”, an agency, executive office, department, board, commission, bureau, division, or authority or other instrumentality of the commonwealth or political subdivision of the commonwealth or 2 or more subdivisions thereof.

"Municipality", a city or town within which a proposed clean energy generating unit, a clean energy research and development facility or a clean energy manufacturing facility is located, if a proposed clean energy generating unit, a clean energy research and development facility or a clean energy manufacturing facility is located in more than one city or town, each such city or town.

“Off-the-record communication”, any communication relevant to the merits of a contested on-the-record proceeding that, if written, is not filed with the commission and not served on the parties to the proceeding in accordance with commission’s duly issued regulations governing service of process or, if oral, is made without reasonable prior notice to the parties to the proceeding and without the opportunity for such parties to be present when the communication is made.

"Person", a natural person, association, corporation, partnership or other legal entity.

“Relevant to the merits”, reasonably capable of affecting the outcome of a proceeding, or of influencing a decision, or providing an opportunity to influence a decision, on any issue in the proceeding, but does not include: (i) procedural inquiries, such as a request for information relating solely to the status of a proceeding, unless the inquiry states or implies a preference for a particular party or position, or is otherwise intended, directly or indirectly, to address the merits or influence the outcome of a proceeding; (ii) a general background or broad policy discussion involving an industry or a substantial segment of an industry, where the discussion occurs outside the context of any particular proceeding involving a party or parties and does not address the specific merits of the proceeding; and (iii) communications relating to compliance matters not the subject of an ongoing proceeding.

“Secretary” the secretary of the executive office of energy affairs.

Section 2. (a) There shall be an executive office of energy affairs which shall be under the supervision, direction and control of a secretary of energy affairs. The secretary shall be appointed by the governor and shall be a person of skill and experience in the field of energy regulation or policy. The secretary shall be the executive and administrative head of the executive office and shall be responsible for administering and enforcing the provisions of law relative to the executive office and to each administrative unit thereof. At the discretion of the governor, 1 individual may simultaneously serve as the secretary of the executive office of energy affairs and the executive office of environmental affairs. If the governor elects to have 1 individual simultaneously serve as secretary the executive office of energy affairs and as secretary of the executive office of environmental affairs the office may be referred to as the Executive Office of Energy and Environmental Affairs. The secretary shall serve at the pleasure of the governor, shall receive such salary as may be determined by law, and shall devote his full time to the duties of his office; provided, however, that if the governor elects to have 1 individual simultaneously serve as secretary the executive office of energy affairs and as secretary of the executive office of environmental affairs said individual shall be considered to be devoting his full time and attention to the duties of his office; provided further, that if the governor elects to have 1 individual simultaneously serve as secretary the executive office of energy affairs and as secretary of the executive office of environmental affairs said secretary shall only collect 1 salary, and salary shall be paid entirely from the executive office of environmental affairs. In the case of an absence or vacancy in the office of the secretary, or in the case of disability as determined by the governor, the governor may designate an acting secretary to serve as secretary until the vacancy is filled or the absence or disability ceases. The acting secretary shall have all the powers and duties of the secretary and shall have similar qualifications as the secretary.

(b) The secretary shall, notwithstanding the provisions of chapter 30 and section 9A of chapter 31 and subject to the approval of the governor, appoint 3 undersecretaries: 1 of whom shall be the undersecretary for alternative and renewable energy development and shall be a person of skill and experience in the fields of alternative or renewable energy; 1 of whom shall be the undersecretary for broadband, cable television and telecommunications and shall be a person of skill and experience in the fields of broadband development, cable television or telecommunications; and 1 of whom shall be the undersecretary for utility regulation and oversight and shall be a person of skill and experience in utility regulation, rate regulation, energy economics, energy, electricity, or gas. Each undersecretary shall receive such salary as the secretary shall determine, subject to the approval of the governor, and shall devote his full time to the duties of his office.

(c) Subject to appropriation, the secretary may appoint such persons as he shall deem necessary to perform the functions of the executive office, provided that the provisions of chapter 31 and section 9A of chapter 30 shall not apply to any person holding any such appointment. Every person so appointed to any position in the executive office shall have experience and skill in the field of such position. So far as practicable in the judgment of the secretary, appointments to such positions in the executive office shall be made by promoting or transferring employees of the commonwealth serving in positions which are classified under said chapter 31, and such appointments shall at all times reflect the professional needs of the administrative unit affected. If an employee serving in a position which is classified under said chapter 31 or in which an employee has tenure by reason of said section 9A of chapter 30 shall be appointed to a position within this office which is not subject to the provisions of said chapter 31, the employee shall upon termination of his service in such position be restored to the position which he held immediately prior to such appointment; provided, however, that his service in such position shall be determined by the civil service commission in accordance with the standards applied by said commission in administering said chapter 31. Such restoration shall be made without impairment of his civil service status or tenure under said section 9A of chapter 30 and without loss of seniority, retirement or other rights to which uninterrupted service in such prior position would have entitled him. During the period of such appointment, each person so appointed from a position in the classified civil service shall be eligible to take any competitive promotional examination for which he would otherwise have been eligible.

Section 3. The executive office shall serve as the principal agency of the executive department of the government of the commonwealth for the development of state energy and telecommunications policies and in so doing they shall:

- (1) Regulate, develop, coordinate and administer the energy and telecommunications industries, policies and programs within the commonwealth;
- (2) Supervise and manage the organization and conduct of the business affairs of the administrative units within the executive office to improve administrative efficiency and program effectiveness and to preserve fiscal resources;
- (3) Develop and implement effective policies, regulations and programs to assure the coordination and quality of services provided by the executive office and all of the administrative units thereof;
- (4) Act as the single state agency to supervise and administer state programs and to maximize federal financial participation for the administrative units within the executive office.

(5) Regulate investor and municipally owned public utilities in the commonwealth;

(6) Protect consumers from unjust utility practices and monitoring the quality of service provided by utility companies;

(7) Ensure that electric and gas service is provided to consumers in a safe and reliable manner at the lowest possible cost;

(8) Ensure that the retail competitive electric market is implemented in a fair and efficient manner that brings benefits to consumers of electricity;

(9) Facilitate access to high speed internet connectivity and telecommunications in the commonwealth, with a special interest in increasing the presence of affordable, state-of-the-art wireless internet, cellular and broadband access across the commonwealth to promote economic development, meet the commonwealth's homeland security and emergency preparedness needs, improve government efficiency, and improve the quality of life for the commonwealth's residents;

(10) Govern cable franchising, franchise renewal and transfers of cable licenses within the commonwealth, establish basic cable rates and enforce consumer protection standards;

(11) Develop and administer programs relating to energy conservation, alternative energy development, non-renewable energy supply and resource development, energy bond authority, energy information, and energy emergencies;

(12) Advise, assist, and cooperate with other state, local, regional, and federal agencies in developing appropriate programs and policies relating to energy planning and regulation in the commonwealth, including assistance and advice in the preparation of loan or grant applications with respect to energy programs, for state, local and regional agencies;

(13) Develop energy data and information management capabilities to aid energy planning and decision-making;

(14) Promote the development of sound energy education programs;

(15) Apply for, receive, expend, represent and act on behalf of the commonwealth in connection with federal grants, grant programs or reimbursements, or private grants, keep accounts, records, personal data, enter into contracts, including contracts for the insurance of vehicles in the alternative fuel vehicle demonstration program, and adjust claims;

(16) Accept gifts, grants, funds, monies, bequests, and devises, whether real or personal, from any source, whether public or private, for the purpose of assisting the commissioner in the discharge of his duties;

- (17) Promulgate rules and regulations necessary to carry out their statutory responsibilities;
- (18) Seek the laboratory, technical, educational, and research skills of state institutions of higher education in order to carry out the provisions of this chapter;
- (19) Plan, develop, oversee, and operate programs to help consumers understand, evaluate, and select retail energy supplies and related services offered as a consequence of electric and gas utility restructuring, in accordance with the provisions of section 11D; and
- (20) Provide technical assistance to municipalities and governmental bodies seeking assistance during the transition to a competitive market, including, but not limited to, the voluntary aggregation of their citizens' demand for electricity pursuant to section 134 of chapter 164.

Section 4. (a) The secretary may from time to time, subject to appropriation, establish within the executive office such administrative units as may be necessary for the efficient and economical administration of the executive office, and when necessary for such purpose, may abolish any such administrative unit, or may merge any two or more units, as the secretary deems advisable. The secretary shall prepare and keep current a statement of the organization of the executive office, of the assignment of its functions to its various administrative units, offices and employees, and of the places at which and the methods whereby the public may receive information or make requests. Such statement shall be known as the executive office's description of organization. A current copy of the description of organization shall be kept on file in the office of the secretary of state and in the office of the secretary of administration.

Section 5. (a) There shall be within the executive office a division of municipal services which shall perform such functions as the secretary may determine in relation to the executive office's interaction with municipalities and other governmental bodies. The division shall be under the supervision and control of a director appointed by the secretary. The director shall be the executive and administrative head of the division and shall be responsible for administering and enforcing the provisions of law relative to the division and to each administrative unit thereof. The duties given to the director in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary.

(b)(i) The division shall serve as the principal point of contact for municipalities and other governmental bodies concerning all matters under the jurisdiction of the executive office, including without limitation, providing

advice and technical assistance to municipalities and other governmental bodies seeking said advice and technical assistance in the procurement of electricity and natural gas on the competitive retail market, with aggregation activities pursuant to section 134 of chapter 164, with implementation of the energy efficiency and green communities program established pursuant to subsection (c) and with any other matter the secretary may deem appropriate.

(b)(ii) The division shall design and implement a competitive bidding procedure for the procurement of electric generation from clean energy generating facilities on behalf of municipalities seeking assistance with said procurement pursuant to subsection (c)(ii); provided further, that any such competitive bids received shall include payment options with rates that remain uniform for a minimum period of 5 years; and provided further, that in lieu of designing and implementing a competitive bidding process as required by this section, the director may become a member of one or more programs organized and administered by the Massachusetts Health and Educational Facilities Authority or its subsidiary organization for the purpose of such competitive group purchasing of electricity.

(c)(i) The division shall establish an energy efficiency and green communities program. The purpose of said program shall be to provide financial assistance, in the form of grants and loans, from the Massachusetts Energy Efficiency Trust Fund established pursuant to section 24 and the Massachusetts Renewable Energy Trust Fund established pursuant to section 25, to municipalities and other governmental bodies that qualify as green communities pursuant to this section to finance the costs of studying, designing, constructing and implementing energy efficiency activities, including but not limited to, energy conservation measures and projects; procurement of energy management services; installation of energy management systems; adoption of demand side reduction initiatives; adoption of energy efficiency policies; and the siting and construction of clean energy projects on municipally owned land. The division may also award grants to provide technical assistance to municipalities applying to qualify as a green community pursuant to this section.

(c)(ii) In order to qualify as a green community a municipality shall: (i) file an application with the division in a form and manner to be prescribed by the division; and (ii) accept a designation as a qualifying clean energy community by the clean energy facility site screening committee established pursuant to section xx and permit the construction of a minimum of 1 clean energy generating facility within the community on municipally or privately owned real property identified by the secretary as real property which could potentially be utilized to site clean energy generating facilities, clean energy research and development facilities, and clean energy manufacturing facilities

pursuant to section 20; (iii) adopt an expedited application and permitting process pursuant to which clean energy generating facilities or clean energy research and development or manufacturing facilities may be sited within the municipality; provided, however, that said process shall not exceed 1 year from the date of initial application to the date of final approval; provided, further, that in lieu of adopting such an expedited application and permitting process a municipality may agree to transfer the right, without recourse to the municipality, to site clean energy generating facilities within the municipality to the energy facilities siting board established pursuant to section 64H of chapter 164; or (iv) agree to enter into a contract wherein the municipality shall purchase a fixed percentage of electricity consumed by municipally owned buildings, street and traffic lights from clean energy sources; provided, however, that the maximum percentage of clean energy generation required to satisfy the provisions of this subsection shall not exceed 20 per cent of a municipality's total electric load as determined by the division.

(c)(iii) In determining the funding priority for municipalities qualifying as green communities pursuant to subsection (c)(ii), the secretary shall consider whether municipalities have undertaken any other initiatives to reduce energy consumption, promote energy conservation or promote the development of clean energy generating facilities including, but not limited to, the following: (a) entering into long-term contracts, as may defined by the secretary, for the purchase of clean energy to satisfy the provisions of subsection (c)(ii); (b) establishing an energy use baseline inventory for municipal buildings, street and traffic lighting and putting in place a comprehensive plan to reduce said baseline; (c) adopting a policy of purchasing only fuel efficient municipal vehicles whenever such vehicles are commercially available and practicable; (d) adopting an ordinance or bylaw requiring any new commercial and industrial real estate development projects to minimize the life-cycle cost of the facility by utilizing energy efficiency, water conservation, or other clean energy technologies; (e) adopting a policy instituting a comprehensive energy curriculum for use by the public schools within the municipality; (f) adopting a policy instituting a comprehensive energy education program for residential users of electricity; and (g) aligning local building codes with the state energy efficiency code established pursuant to chapter 143.

(d) The division shall establish general policy, guidelines and standards regarding energy conservation measures and projects; procurement of energy management services; installation of energy management systems; adoption of demand side reduction initiatives; adoption of energy efficiency policies; and the siting and construction of renewable energy projects on municipally owned land and shall administer the energy efficiency and green communities program in accordance with the provisions of this chapter. The director of the division shall

be responsible for the administration and oversight of the energy efficiency and green communities program as established herein, and shall, in consultation with the undersecretary for alternative and renewable energy development, apply and disburse monies and revenues of the Massachusetts Energy Efficiency Trust Fund established pursuant to section 24 and the Massachusetts Renewable Energy Trust Fund established pursuant to section 25 without further appropriation or allotment, subject to restrictions imposed by subsection (e) and consistent with the provisions of said sections 24 and 25.

(e) The total amount of annual funding available for the energy efficiency and green communities program in any one fiscal year shall not exceed 20 per cent of the revenues generated by the Massachusetts Energy Efficiency Trust Fund established pursuant to section 24 for energy conservation measures and projects, energy management services, energy management systems and demand side reduction initiatives and 40% of the revenues generated by the Massachusetts Renewable Energy Trust Fund established pursuant to section 25 for renewable energy projects in said fiscal year.

(f) A municipality or other governmental body served by a municipal lighting plant exempt from the provisions of section 24 and section 25 shall not be eligible for designation as an energy efficient and green community pursuant to this section.

(g) The division shall establish rules, regulations and guidelines for the administration and enforcement of this section, including, but not limited to, establishing applicant criteria, application forms and procedures, and energy efficiency product requirements.

Section 6. (a) There shall be within the executive office, but not subject to the control of said office, an office for ratepayer advocacy. The governor shall appoint a director of the office of ratepayer advocacy for a term of 6 years. The governor may remove the director only for cause including, but not limited to, any violations of the provisions of section 7, and shall fill any vacancy for the unexpired term. The director shall devote his full time and attention to the duties of his office.

(b) The director is hereby authorized to intervene in administrative or judicial proceedings held in the commonwealth, in any other New England state and before any federal agency on behalf of any group of consumers in connection with any matter involving the rates, charges, prices or tariffs of an electric, gas, telephone or telegraph company doing business in the commonwealth and subject to the jurisdiction of the executive office.

For the purpose of such intervention the director may expend such funds as may be appropriated therefor; provided, however, that such expenditures shall not exceed the amount assessed annually against such electric, gas, telephone and telegraph company under the provisions of section 10(e).

(c) The director may appoint such persons as he shall deem necessary to perform the functions of the office of ratepayer advocacy, provided that the provisions of chapter 31 and section 9A of chapter 30 shall not apply to any person holding any such appointment. Every person so appointed to any position in the office of ratepayer advocacy shall have experience and skill in the field of such position. So far as practicable in the judgment of the secretary, appointments to such positions in the executive office shall be made by promoting or transferring employees of the commonwealth serving in positions which are classified under chapter 31, and such appointments shall at all times reflect the professional needs of the administrative unit affected. If an employee serving in a position which is classified under chapter 31 or in which an employee has tenure by reason of section 9A of chapter 30 of the General Laws shall be appointed to a position within this office which is not subject to the provisions of chapter 31 of the General Laws, the employee shall upon termination of his service in such position be restored to the position which he held immediately prior to such appointment; provided, however, that his service in such position shall be determined by the civil service commission in accordance with the standards applied by said commission in administering chapter 31. Such restoration shall be made without impairment of his civil service status or tenure under section 9A of chapter 30 of the General Laws and without loss of seniority, retirement or other rights to which uninterrupted service in such prior position would have entitled him. During the period of such appointment, each person so appointed from a position in the classified civil service shall be eligible to take any competitive promotional examination for which he would otherwise have been eligible.

Section 7. (a) The secretary, undersecretaries, commissioners, and directors of the executive office shall be sworn to the faithful performance of their official duties. Each secretary, undersecretary, commissioner, and director shall conduct themselves in a manner so as to render decisions that are fair and impartial and in the public interest; avoid impropriety and the appearance of impropriety in all matters under their jurisdiction; avoid all prohibited communications; require staff and personnel subject to their direction and control to observe the same standards of fidelity and diligence; disqualify themselves from proceedings in which their impartiality might reasonably be questioned; refrain from financial or business dealings which would tend to reflect adversely on impartiality, although the secretary, undersecretaries, commissioners, and directors may hold and manage investments which are not incompatible with the duties of their

office or the provisions of this section; conform to such additional rules as may be prescribed by the secretary from time to time.

(b) The secretary, undersecretaries, commissioners, directors and employees shall not own, or be in the employ of, or own any stock in, any regulated industry company, nor shall they be in any way directly or indirectly pecuniarily interested in, or connected with, any such regulated industry company or in the employ or connected with any person financing any regulated industry company. The secretary, undersecretaries, commissioners, directors and employees shall not personally, or through any partner or agent, render any professional service or make or perform any business contract with or for any regulated industry company, except contracts made with the commissioners as common carriers for furnishing of services, nor shall he or she directly or indirectly receive any commission, bonus, discount, gift or reward from any regulated industry company.

For the purposes of this section and the provisions of chapter 164, a regulated industry company shall be defined as any corporation, city, town or other governmental subdivision, partnership or other organization, or any individual engaged within the commonwealth in any business which is, or the persons engaged in which are, in any respect made subject to the supervision or regulation of the executive office by any provision of law except chapter 110A of the General Laws and chapter 651 of the Acts of 1910, as amended.

Section 8. The secretary shall annually develop a short and long term resource adequacy forecast projecting capacity and demand for both electric generation and natural gas throughout the commonwealth. The analysis and publication of all data and information collected by the executive office shall be utilized to inform consumers, energy suppliers and other market participants, the executive office, and the general court about short and long term resource adequacy, the operation of retail markets and any deficiencies in the operation of those markets, and to recommend improvements to such.

The secretary shall coordinate with the operator of the bulk power system in New England, the federal energy regulatory commission, and the other public utility commissions in the states of Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont to adopt and implement appropriate policy initiatives and statutory reforms including, but not limited to, the further development of the operator of the bulk power system, to ensure the independent operation of the regional bulk power system in order to provide for full and fair competition in electric generation while preserving the reliability of the system.

The governor, acting by and through the secretary, shall pursue the formation of a regional oversight committee with members from the various public utilities regulatory bodies from Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont to monitor any independent systems operator serving the New England/New York area formed through federal statute or regulation. Said committee shall be encouraged to pursue regional coordination of transmission oversight including, but not limited to, the development and execution of a regional compact agreement, subject to federal congressional and executive approval, in an effort to jointly monitor issues of reliability which affect the region as a whole and to require publicly and investor-owned utilities located in the aforementioned states that sell energy to retail customers in the commonwealth to adhere to enforceable standards and protocols to protect the reliability of the regional transmission and distribution systems.

The executive office shall annually issue a report containing information on all issues of electricity system reliability including, but not limited to, generation and transmission data detailing load and capacity for the prior calendar year and forecasting potential future capacity excesses or deficits for the next 10 calendar years. The executive office shall utilize any and all information available to forecast potential capacity excesses or deficits including, but not limited to, analyses by the independent system operator and other such data collected by the executive office pursuant to section 24. Said report shall contain: (i) electricity spot price information for the previous calendar year, including, but not limited to, the average regional monthly spot price; (ii) a determination of the extent to which the energy markets are maintaining necessary levels of reliability; (iii) a determination of whether or not all customer classes are being adequately served by competitive energy markets; (iv) a determination of the competitiveness of energy markets; including a determination whether or not the electric industry is providing consumers with the lowest prices possible within a restructured, competitive retail marketplace; and (v) a determination of the extent to which the energy markets are achieving the energy efficiency and fuel diversity goals of the commonwealth. Said report shall identify any substantial fluctuation or pricing differences in the cost of electricity available to consumers, especially with respect to geographic regions and low and moderate income consumers. Said report shall make recommendations for improving any deficiencies so identified in electricity energy markets which are within the authority of the general court, the executive office, the federal energy regulatory commission, or any other governmental body with jurisdiction over the deficiency so identified. The executive office shall annually submit such report to the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy and the joint committee on economic development and

emerging technologies no later than April 30, including drafts of legislation to implement recommendations contained within such report.

Section 9. There is hereby established within the executive office an energy advisory board which shall consist of 13 members appointed by the governor: 3 of whom shall be representatives of investor-owned electric utilities; 1 of whom shall be a representative of an investor-owned gas utility; 2 of whom shall be representatives of the environmental community; 2 of whom shall be representatives of the business community; 1 of whom shall be a consumer representative; 1 of whom shall be a representative of organized labor appointed from a list of 3 qualified names submitted by the Massachusetts State Labor Council, AFL–CIO; 1 of whom shall be a representative of energy conservation providers; 1 of whom shall be a representative of the independent power industry and 1 of whom shall be the secretary. Said advisory board shall meet at least 4 times annually and shall make recommendations to the governor respecting mandated assessments and fees; relating to the provision of energy and energy services in the commonwealth; the relationship between existing fees and assessments on public utilities and patterns of timely regulatory action; the elimination of duplication of regulatory activity and relative to long-term planning and the future of the commonwealth's energy policy. Said advisory board shall annually, no later than October 1, report to the governor and to the house and senate committees on ways and means and the joint committee on telecommunications, utilities and energy. The members of the advisory board shall serve without compensation.

Section 10. (a) The secretary is hereby authorized to make an assessment against each electric, gas, cable television, telephone and telegraph company under the jurisdictional control of the executive office and each generation company and supplier licensed by the executive office to do business in the commonwealth, based upon the intrastate operating revenues subject to the jurisdiction of the executive office of each of said companies derived from sales within the commonwealth of electric, gas, cable television, telephone and telegraph service, respectively, as shown in the annual report of each of said companies to the executive office. Said assessments shall be made at a rate not exceeding 0.2 per cent of such intrastate operating revenues, as shall be determined and certified annually by the secretary as sufficient to reimburse the commonwealth for funds appropriated by the general court for the operation and general administration of the executive office, exclusive of funds appropriated by the general court for the cost of fringe benefits as established by the commissioner of administration pursuant to section 5D of chapter 29, including group life and health insurance, retirement benefits, paid vacations, holidays and sick leave. The funds may be used to compensate consultants in hearings on petitions filed by companies subject to assessment under this section.

Assessments made under this section may be credited to the normal operating cost of each company. Each company shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the executive office. Such assessments shall be collected by the executive office and credited to the General Fund. Any funds unexpended in any fiscal year for the purposes for which such assessments were made shall be credited against the assessment to be made in the following fiscal year and the assessment in the following fiscal year shall be reduced by any such unexpended amount.

(b) For the purpose of providing the executive office with additional operating funds for the regulation of electric companies, the secretary may make a separate assessment proportionally against each electric company under the jurisdictional control of the executive office and each generation company and supplier licensed by the executive office to do business in the commonwealth, based upon the intrastate operating revenues subject to the jurisdiction of the executive office of each of such companies derived from sales within the commonwealth of electric service, as shown in the annual report of each of such companies to the executive office. Such assessment shall be made at a rate as shall be determined and certified annually by the secretary as sufficient to produce an annual amount of not less than \$2,438,000 commencing in fiscal year 1998 and in each fiscal year thereafter, plus the costs of fringe benefits and indirect costs as established by the commissioner of administration pursuant to section 5D of chapter 29, including group life and health insurance, retirement benefits, paid vacations, holidays and sick leave. The amount of such assessment may be increased by the secretary annually by a rate not to exceed the most recent annual consumer price index as calculated for the northeast region for all urban consumers. Assessments made under this section may be credited to the normal operating cost of each company. Each company shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the secretary. Such assessments shall be collected by the executive office, and credited to the Executive office of Energy Affairs Trust Fund established pursuant section 35CC of chapter 10.

(c) A schedule of filing fees shall be determined annually by the commissioner of administration under the provisions of section 3B of chapter 7 for the following: (i) petitions for certificates of environmental impact and public need, provided, however, that such filing fee for any municipal corporation empowered to operate a municipal lighting plant under the provisions of section 35 or 36 of chapter 164 shall not exceed a maximum amount; and (ii) notices of intention to construct an oil facility, with a maximum amount per oil facility to be graduated in accordance with the expected capital investment in the facility.

(d) Notwithstanding the provisions of section 20 of chapter 159 and section 94 of chapter 164, during any fiscal year in which such assessment is made, the executive office shall have no authority to suspend the effective date of any rate, price or charge set forth in any schedule filed subsequent to January 1, 1977 by a telephone or telegraph company under the provisions of said chapter 159 or by a gas or electric company under the provisions of said section 94 of said chapter 164 for a period longer than 6 months; provided, however, that in the event that such 6 month period expires on a Sunday or legal holiday, any rate, price or charge suspended under this section shall remain suspended until the day following the next day which is not a Sunday or legal holiday.

(e) The secretary is hereby authorized to make an annual assessment against each electric, gas, telephone and telegraph company doing business in the commonwealth and subject to the supervision of the executive office, based upon intrastate operating revenues of each of such companies derived from the sales of electric, gas, telephone and telegraph services, respectively, as shown on the annual report or annual statement of each such company filed with the appropriate supervising agency. Such assessment shall be in such amount as determined and certified annually by the director to be sufficient to produce \$1,350,145 in revenue to the commonwealth and shall be assessed proportionately against each such company on the basis of such intrastate operating revenues of each such company; provided, however, that in addition to such assessment amount, the assessment shall include amounts to be credited to the General Fund for fringe benefit costs including, but not limited to, group life and health insurance and retirement benefits, paid vacations and holidays and sick leave, not to exceed 22 percent of the amount attributable to personnel costs of the director's office subject to assessment under the provisions of this section and section 6 in the fiscal year in which such assessment is made; and, provided further, that if the director fails to expend in any fiscal year the total amount of \$1,350,145 for the purposes set forth under the provisions of said section 6, any amount unexpended in such fiscal year shall be credited against the assessment to be made in the following year and the assessment in such following year shall be reduced by such unexpended amount.

Assessments made under this subsection may be credited to the normal operating costs of each such company and shall be utilized by the director solely for the purposes set forth under the provisions of section 6. The secretary is hereby authorized to make a further annual assessment for the purpose of providing funds to the director for the representation of consumer interests in proceedings held pursuant to section 94G of chapter 164 and such other proceedings as may be reasonably related to said section 94G. Such assessments shall be assessed proportionately against each electric company under the jurisdictional control of the executive office based upon the intrastate operating

revenues of each such company derived from wholesale and retail sales of electricity within the commonwealth as shown in the annual report of such company to the executive office. Such assessment shall be made at a rate which shall be determined and certified annually by the director as sufficient to produce not more than \$75,000 in revenue to be credited to the General Fund for each fiscal year for which such assessment is made.

(f) The secretary may make an assessment against each electric and gas utility company doing business in the commonwealth. This subsection shall not apply to municipally owned electric and gas companies. The assessments shall be made to finance activities undertaken by the department of alternative and renewable energy development in accordance with section 24 related to oversight and coordination of ratepayer funded programs for energy efficiency, energy conservation, and demand reduction programs. The assessment shall be made at a rate determined and certified annually by the secretary as sufficient to reimburse the commonwealth for funds appropriated by the general court for activities of the department of alternative and renewable energy development related to the oversight and coordination of programs for energy efficiency, energy conservation, and demand reduction. The assessment shall not exceed an amount equal to 0.75 per cent of the total annual mandatory charge collected by each utility company under section 11. Assessments made under this section shall be charged by the utility companies against the revenues so collected under section 11 or as the revenues are approved by the commission or otherwise required by law, as applicable. Each company shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the department.

(g) The secretary shall make an assessment for each fiscal year against each licensee issued a license pursuant to section 39 with operating revenues exceeding \$1,000,000 based upon the operating revenues of each licensee derived from sales within the commonwealth of community antenna television service as shown in the most recent annual report to the director of the division of community antenna television of each said licensee. Said assessment shall be determined and certified by the secretary so as to produce not more than \$720,000 in revenue for each fiscal year to be allocated among such licensees in the proportion that each licensee's share of such operating revenues bears to the total of all such licensees in the commonwealth during the previous calendar year. The funds produced by such assessment shall be allocated to the administrative, operational, equipment and personnel expenses of the division of community antenna television established pursuant to section 37, subject to appropriation.

(h) On or before October 1 of the year in which an assessment is made pursuant this section, the secretary shall certify to the commissioner of revenue the amount of the assessment to be made and the name and address of each company against whom such assessment is made. Such assessments shall be collected by said commissioner in accordance with applicable provisions of chapter 63; provided, however, that each such company shall pay the amount assessed against it within 30 days from the receipt of notice of assessment from said secretary. The amount so collected shall be credited to the General Fund.

Section 11. (a) The executive office shall require a mandatory charge per kilowatt-hour for all electricity consumers of the commonwealth, except those consumers served by a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition at the retail level, to fund energy efficiency activities including, but not limited to, demand-side management programs. Said charge shall be in the amount of 2.5 mills (\$0.0025) per kilowatt-hour. 50 per cent of all revenues generated by said mandatory charge shall be deposited into the Massachusetts Clean Energy Trust Fund, established pursuant to section 23 and 50 per cent of all revenues generated by said mandatory charge shall be deposited into the Massachusetts Energy Efficiency Trust Fund, established pursuant to section 24.

(b) The executive office shall require a mandatory charge per therm for all natural gas consumers in the commonwealth, to fund energy efficiency activities including, but not limited to, demand-side management programs. Said charge shall be in the amount of 12.5 mills (\$0.0125) per therm. 50 per cent of all revenues generated by said mandatory charge shall be deposited into the Massachusetts Clean Energy Trust Fund, established pursuant to section 23 and 50 per cent of all revenues generated by said mandatory charge shall be deposited into the Massachusetts Energy Efficiency Trust Fund, established pursuant to section 24.

Section 12. (a) The executive office shall require a mandatory charge per kilowatt-hour for all electricity consumers of the commonwealth, except those consumers served by a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition at the retail level, to support the development and promotion of clean and renewable energy projects. Said charge shall be in the amount of $\frac{1}{2}$ of 1 mill (\$0.0005) per kilowatt-hour. 50 per cent of all revenues generated by said mandatory charge shall be deposited into the Massachusetts Clean Energy Trust Fund, established pursuant to section 23 and 50 per cent of all revenues generated by said mandatory charge shall be deposited into the

Massachusetts Renewable Energy Trust Fund, established pursuant to section 25.

(b) The executive office shall require a mandatory charge per therm for all natural gas consumers in the commonwealth, to support the development and promotion of clean and renewable energy projects. Said charge shall be in the amount of 12.5 mills (\$0.0125) per therm. 50 per cent of all revenues generated by said mandatory charge shall be deposited into the Massachusetts Clean Energy Trust Fund, established pursuant to section 23 and 50 per cent of all revenues generated by said mandatory charge shall be deposited into the Massachusetts Renewable Energy Trust Fund, established pursuant to section 25.

Section 13. The secretary, in conjunction with the secretary of administration and finance, shall design and implement a competitive bidding process for the competitive procurement of electric generation on behalf of any agency, executive office, department, board, commission, bureau, division, or authority of the commonwealth procuring electricity from a local distribution company via basic service pursuant to subsection (e) of section 1B of chapter 164 as of July 1, 2007; provided further that, any such competitive bid received shall include payment options with rates that remain uniform for a minimum period of 1 year; and provided further, that in lieu of designing and implementing a competitive bidding process as required by this section, the secretary may become a member of one or more programs organized and administered by the Massachusetts Health and Educational Facilities Authority or its subsidiary organization for the purpose of such competitive group purchasing of electricity.

Section 14. The governor shall have the authority to declare an energy emergency in the commonwealth due to actual or imminent severe energy supply interruption in the commonwealth, or resulting from the obligating of the United States under the international energy program of the United States, or like obligation. The declaration of an energy emergency shall comply with the requirements of section 2 of chapter 30A with regard to emergency regulations. Upon issuance of such declaration of an energy emergency the governor shall implement, at his discretion, with or without any federal delegation, action or approval: (i) such energy supply shortage contingency plans including conservation contingency plans and rationing contingency plans as have been developed by the secretary of the executive office of energy affairs and which conform to the substantive requirements of 42 USC Secs. 6261–6275; and (ii) any petroleum plan or other measures which comply with the substantive requirements of 15 USC Sec. 751–760H or successor federal legislation. Any such declaration of an energy emergency, as provided in this section, shall

expire in 90 days after promulgation. In the event the governor deems it necessary to extend the energy emergency beyond said 90 days, he shall file with the general court legislation authorizing such extension. The governor shall have the authority to adopt and enforce such energy emergency measures as may be delegated by the United States and which are consistent with the General Laws.

Section 15. To enable retail customers to realize savings from electric utility restructuring, the secretary, in consultation with local and state-wide consumer groups, is hereby authorized and directed to undertake activities, subject to appropriation, to assist consumers in understanding and evaluating their rights and choices with respect to retail electricity supplies and related services offered as a benefit of said restructuring. Said activities shall provide consumers with information that provides a consistent and reliable basis for comparing products and services offered in the electricity market and shall develop said activities in cooperation with the director to assist in the detection and avoidance of unfair or deceptive marketing practices. Said activities may include, but shall not be limited to: (i) development of consumer education materials, including billing inserts, providing consumers with information in a clear and consistent manner empowering consumers to select their own electricity suppliers and products based on individual preferences, such as price, resource type, and environmental considerations and whether the generation company or supplier operates under collective bargaining agreements and whether such generation company or supplier operates with employees hired as replacements during the course of a labor dispute; and (ii) collection and dissemination of accurate and comparable information derived from the uniform disclosure labeling system which shall identify, at a minimum, the price of power generation, the length and kind of contract, the mix of fuel and power generation sources, and the level of air emissions.

The secretary may establish and advertise a toll-free telephone hotline that shall be capable of responding to consumer questions and complaints about their electricity service and the transition to a competitive retail electricity market. The administration of any such hotline and consumer response service so established shall be coordinated with the executive office and the office of the ratepayer advocate in order to prevent the duplication of similar services. The information made available to consumers by said hotline shall be fully coordinated and consistent with the information made available to consumers by said department and the office of the ratepayer advocate. Said hotline and consumer response services, or any portions thereof, may be contracted to third parties, provided that any such contracts shall be performance-based and subject to approval by the secretary of administration and finance. Any such hotline and consumer response administered by the secretary or any contracted party is

hereby prohibited from promoting, endorsing or encouraging consumers to select or purchase from a particular provider, supplier, aggregator, broker or other purveyor of electricity and related services.

Consumer education activities proposed to be undertaken by the secretary pursuant to this section for a subsequent fiscal year shall be described in a plan to be submitted to the secretary for review and approval no later than February 1 of each year. Said plan shall include a projected budget, including revenues sources, for the activities proposed by said plan that explains the basis for all costs and cost increases over the plan then in effect. The secretary, in reviewing said plan for approval, shall establish that said activities of the executive office are not duplicative and that the information made available to consumers thereby is consistent with the General Laws. Said plan shall also be submitted to the house and senate committees on ways and means and the joint committee telecommunications, utilities and energy. The secretary shall recommend in the plan the termination of activities that are no longer necessary due to the status of utility restructuring or in the public interest. Said plan shall recommend the provision of services funded by the commonwealth through the executive office only to the extent that the private market cannot or does not adequately meet the information needs of retail customers as determined by said department pursuant to section 11E.

Section 16. The secretary shall annually submit a complete and detailed report of the executive office's activities within 90 days after the end of the fiscal year to the clerk of the house of representatives, the clerk of the senate, the chairs of the joint committee on telecommunications, utilities and energy, the chairs of the joint committee on economic development and emerging technologies and the chairs of the house and senate committees on ways and means.

Section 17. The executive office shall enforce the provisions of this chapter and may adopt such rules, regulations, procedures and standards relating to the administration and enforcement of this chapter pursuant to chapter 30A; provided, however, that except for emergency regulations adopted pursuant to section 2 of chapter 30A any regulation, as defined in section 1 of said chapter 30A, or any amendment or repeal of any such regulation adopted by the executive office or any administrative unit thereof pursuant to this chapter, shall, after compliance with all applicable provisions of said chapter 30A, except section 5, be submitted to the general court. Said executive office shall file the proposed regulation, amendment or repeal with the clerk of the house of representatives, together with a statement that the pertinent provisions of said chapter 30A, except said section 5 have been complied with. Such regulations shall be accompanied by a summary of the regulations in layman's terms. The

clerk of the house of representatives, with the approval of the president of the senate and the speaker of the house of representatives, shall refer such regulations to the joint committee on telecommunications, utilities and energy. Within 30 days after such referral, said committee may hold a public hearing on the regulations and shall issue a report to the secretary. The secretary shall review said report and shall adopt final regulations as deemed appropriate in view of said report and shall file with the chairs of such reporting committee its final regulations. Not earlier than 30 days after the filing of such report with the said chairs, said secretary shall file the final regulations with the state secretary as provided in section 5 of said chapter 30A and said regulations shall thereupon take effect.

Department of Alternative and Renewable Energy Development

Section 18. As used in sections 18 through 33, inclusive, the following words, shall, unless the context clearly requires otherwise, have the following meanings:-

“Alternative energy development”, shall include but not be limited to solar energy; wind; wood; alcohol; hydroelectric; biomass energy systems; renewable non-depletable, and recyclable energy sources.

“Alternative energy property”, any property powered in whole or in part by the sun, wind, water, biomass, alcohol, wood, or any renewable, non-depletable or recyclable fuel, and property related to the exploration, development, processing, transportation, and distribution of the aforementioned energy resources.

“Committee”, the clean energy site screening committee established pursuant to section 20.

“Department”, the department of alternative and renewable energy development established pursuant to section 2.

“End-user”, any individual, corporation, firm or subsidiary of any firm that is an ultimate consumer of petroleum products and which, as part of its normal business practices, purchases or obtains petroleum products from a wholesaler or reseller and receives delivery of that product.

“Energy audit”, a determination of the energy consumption characteristics of a building or facility which-

identifies the type, size, and rate of energy consumption of such building or facility and the major energy using systems of such building or facility;

determines appropriate energy conservation maintenance and operating procedures; and

indicates the need, if any, for the acquisition and installation of energy conservation measures or alternative energy property.

“Energy conservation”, shall include but not be limited to the modification of or change in operation of real or personal property in a manner likely to improve the efficiency of energy use, and shall include energy conservation measures, and any process to audit or identify and specify energy and cost savings.

“Energy conservation measures”, measures involving modifications of maintenance and operating procedures of a building or facility and installations therein, which are designed to reduce energy consumption in such building or facility, or the installation, modification of an installation in a building or facility which is primarily intended to reduce energy consumption.

“Energy conservation projects”, projects to promote energy conservation, including but not limited to energy conserving modification to windows and doors; caulking and weatherstripping; combined heat and power facilities; insulation, automatic energy control systems; hot water systems; equipment required to operate variable steam, hydraulic, and ventilating systems; plant and distribution system modifications including replacement of burners, furnaces or boilers; devices for modifying fuel openings; electrical or mechanical furnace ignition systems; utility plant system conversions; replacement or modification of lighting fixtures; energy recovery systems; and, cogeneration systems.

“Energy management services”, a program of services, including energy audits, energy conservation measures, energy conservation projects, or a combination thereof, and building maintenance and financing services, primarily intended to reduce the cost of energy and water in operating one or more buildings, which may be paid for in whole or in part, by cost savings attributable to a reduction in energy and water consumption which result from such services.

“Green Building”, buildings, including but not limited to, homes, offices, schools, and hospitals constructed or renovated to incorporate design techniques, technologies, and materials that lessen its dependence on fossil fuels and minimize its overall negative environmental impact.

“Incremental new hydroelectric generation”, the percentage increase in average annual electricity production attributable to efficiency improvements or additions to capacity placed in service at a hydroelectric facility after December 31, 1997, as certified by the department relative to the historical generation for each eligible hydroelectric facility; provided, however, that historical generation for each eligible hydroelectric facility shall be calculated by the department based on the average electricity generated annually by a facility during the 10 years prior to the capacity addition or efficiency improvement, or the life of the facility, whichever is shorter. In no event shall an energy generation which would have existed in the absence of the efficiency improvements or additions to capacity be considered incremental new hydroelectric generation for the purposes of this chapter.

“Non-renewable energy supply and resource development”, shall include but not be limited to gasoline, natural gas, coal, nuclear energy, petroleum both offshore and onshore, and facilities related to the exploration, development, processing, transportation, and distribution of such resources and programs established for the allocation of supplies of such resources and the development of supply shortage contingency plans.

“Petroleum products”, propane, gasoline, unleaded gasoline, kerosene, #2 heating oil, diesel fuel, kerosene base jet fuel, and #4, 5, and 6 residual oil for utility and non-utility uses, and all petroleum derivatives, whether in bond or not, which are commonly burned to produce heat, power, electricity, or motion or which are commonly processed to produce synthetic gas for burning.

“Renewable energy”, either (i) resources whose common characteristic is that they are nondepletable or are naturally replenishable but flow-limited, or (ii) existing or emerging non-fossil fuel energy sources or technologies, which have significant potential for commercialization in New England and New York, and shall include the following: solar photovoltaic or solar thermal electric energy; wind energy; ocean thermal, wave, or tidal energy; geothermal; fuel cells; landfill gas; waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; naturally flowing water and hydroelectric; and low-emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel. The following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells, and nuclear power.

“Reseller”, any person, corporation, firm or subsidiary of any firm that carries on the trade or business of purchasing petroleum products and reselling them without substantially changing their form, or any wholesaler or retail seller of electricity or natural gas.

“Undersecretary”, the undersecretary of the executive office of energy affairs for the department of alternative and renewable energy development.

“Vintage hydro-electric generation unit”, a hydro-electric generation unit that began operation prior to January 1, 1998.

“Wholesaler”, any person, corporation, firm or any part or subsidiary of any firm which supplies, sells, transfers, or otherwise furnishes petroleum products to resellers or end-users.

Section 19. (a) There shall be within the executive office a department of alternative and renewable energy development, which shall perform such functions as the secretary may determine in relation to the administration, implementation, and enforcement of the executive office’s authority over alternative and renewable energy development, including developing a statewide plan relative to energy development. The department shall be under the supervision and control of the undersecretary for alternative energy and renewable development established pursuant to section 2. The undersecretary shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the provisions of law relative to the department and to each administrative unit thereof. The duties given to the undersecretary in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary.

Section 20. There shall be within the department a clean energy site screening committee. The committee shall consist of 7 members, 1 of whom shall be the undersecretary of the executive office of energy affairs for alternative and renewable energy development who shall serve as chair; 1 of whom shall be the secretary of the executive office of transportation and construction or his designee; 1 of whom shall be the secretary of the executive office of economic development or his designee; 1 of whom shall be the secretary of the executive office of environmental affairs or his designee; 1 of whom shall be the commissioner of the division of capital asset management and maintenance or his designee; 1 of whom shall be the director of the Massachusetts municipal association or his designee; and 1 of whom shall be the chair of the board of

directors of the Massachusetts association of regional planning agencies or his designee.

The committee shall develop a statewide list of public and private real property which could be utilized to site clean energy generating facilities, clean energy research and development facilities, and clean energy manufacturing facilities. In determining the suitability of sites to be included on the statewide list the committee shall consider, without limitation, the energy capacity needs of the electric system, development and construction costs, the proximity of the site to the distribution and transmission system, the environmental impact of a project, the impact upon the public use and enjoyment of the potential site, the impact upon abutters to the potential site, the economic impact upon the host municipality and the region, and such other matters as the committee shall deem appropriate; provided, however, that notwithstanding any local zoning bylaw or ordinance to the contrary, if a clean energy generating facility other than a waste-to-energy facility is proposed in any district zoned for industrial use or on any real property designated and accepted pursuant to this section, the use shall be allowed as of right, subject to the imposition of reasonable conditions through a site plan review process.

The committee shall annually submit a statewide list of any public and privately owned real property which could be utilized to site clean energy generating facilities, clean energy research and development facilities, and clean energy manufacturing facilities to the secretary. The secretary shall provide written notification to the host municipality of any real property within its jurisdiction that has been identified as real property which could potentially be utilized to site clean energy generating facilities, clean energy research and development facilities, and clean energy manufacturing facilities pursuant to the provisions of this chapter. Said notice shall be sent to the city manager in the case of a city under a Plan E form of government, the mayor and city council in the case of all other cities, the chairman of the board of selectmen in the case of a town, the county commissioners, the regional planning agency, and the representatives to the general court representing said host municipality. The secretary shall set forth in such notice a description of the real property, including the identity of the owners of said real property, and a declaration that the real property is eligible for designation as a qualifying clean energy property. The host municipality shall, within 180 days from receipt of said notification, notify the secretary whether it will accept the designation of the real property as a qualifying clean energy property. A host municipality which accepts the designation of at least 1 parcel of real property identified as real property which could potentially be utilized to site clean energy generating facilities, clean energy research and development facilities, and clean energy

manufacturing facilities shall, upon satisfying the requirements of section 5, qualify as an energy efficient green community.

The committee shall, no later than December 31, annually submit a written report of its activities. Said report shall be submitted to the chair of the senate committee on ways and means, the chair of the house committee on ways and means, the chairs of the joint committee on telecommunications, utilities and energy, the chairs of the joint committee on economic development and emerging technologies, the clerk of the senate and the clerk of the house of representatives.

Section 21. (a) The department shall establish a renewable energy portfolio standard for all retail electricity suppliers selling electricity to end-use customers in the commonwealth. The department shall determine the actual percentage of kilowatt-hour sales to end-use customers in the commonwealth which is derived from existing renewable energy generating sources. Every retail supplier shall provide a minimum percentage of kilowatt-hour sales to end-use customers in the commonwealth from new renewable energy generating sources, according to the following schedule: (i) an additional 1 per cent of sales by December 31, 2003, or 1 calendar year from the final day of the first month in which the average cost of any renewable technology is found to be within 10 per cent of the overall average spot-market price per kilowatt-hour for electricity in the commonwealth, whichever is sooner; (ii) an additional one-half of 1 per cent of sales each year thereafter until December 31, 2009; and (iii) an additional 1 per cent of sales every year thereafter until a date determined by the department. For the purpose of this subsection, a new renewable energy generating source is one that begins commercial operation after December 31, 1997, or that represents an increase in generating capacity at an existing facility after December 31, 1997.

(b) For the purposes of this section, a renewable energy generating source is one which generates electricity using any of the following: (i) solar photovoltaic or solar thermal electric energy; (ii) wind energy; (iii) ocean thermal, wave, or tidal energy; (iv) fuel cells utilizing renewable fuels; (v) landfill gas; (vi) waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; (vii) naturally flowing water and run-of-the-river vintage hydroelectric generation units located in the commonwealth, operating under the jurisdiction of the Federal Energy Regulatory Commission, with a generating capacity of not more than 5 megawatts and not utilizing a dam constructed after December 31, 1997 and incremental new hydroelectric generation resulting from increased capacity or efficiency at a hydroelectric facility which does not involve pumped storage of water or any new impoundment or diversion of water, and where such facility meets the requirements for classification as low impact hydropower as certified

by the Low Impact Hydropower Institute or as certified by the division in accordance with comparable environmental certification standards; and (viii) low-emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel; provided, however, that after December 31, 1998, the calculation of a percentage of kilowatt-hour sales to end-use customers in the commonwealth from new renewable generating sources shall exclude clause (vi); provided further, that notwithstanding the provisions of subsection (a) the department shall annually determine the actual percentage of kilowatts generated in the commonwealth by naturally flowing water and run-of-the-river vintage hydroelectric generation units and adjust the minimum percentage of kilowatt hours sales to end use customers in the commonwealth by a percentage not to exceed the percentage of kilowatts generated in the commonwealth by naturally flowing water and run-of-the-river vintage hydroelectric generation units. A new renewable energy generating source is also any stoker biomass combustion technology of 30 megawatts or less gross generating capacity and which, after December 31, 1997, is equipped to emit equal to or less than the emissions allowed under the low emission air quality standards used in the renewable portfolio standard regulations promulgated relative to this section for biomass facilities of similar capacity. After conducting administrative proceedings, the department may add technologies or technology categories to the above list; provided, however, that the following technologies shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells, and nuclear power.

Section 22. (a) The department shall establish an alternative energy portfolio standard for all retail electricity suppliers selling electricity to end-use customers in the commonwealth. Beginning January 1, 2008, every retail supplier shall provide a minimum of 2 percent of kilowatt-hour sales to end-use customers in the commonwealth from alternative energy generating sources and the secretary shall annually thereafter determine the minimum percentage of kilowatt-hour sales to end-use customers in the commonwealth which shall be derived from existing alternative energy generating sources. For the purposes of this section, an alternative energy generating source is one which generates electricity using any of the following: (i) coal gasification; (ii) plasma gasification; (iii) combined heat and power; (iv) geothermal (v) electricity savings achieved by energy efficiency measures; provided, however, that at no time shall retail sellers be required to procure electricity savings achieved by efficiency projects that exceed, on a per kilowatt-hour basis, the cost of generation for end-use customers in the commonwealth for the year in which the savings are to be purchased; and (vi) any other alternative energy technology approved by the undersecretary pursuant to an administrative proceeding conducted pursuant to chapter 30A; provided, however, that the following

technologies shall not be considered alternative energy supplies: coal, except when used in coal gasification, oil, and natural gas, except when used in coal gasification.

Section 23. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts Clean Energy Trust Fund, hereinafter in this section referred to as the fund. The undersecretary shall hold the fund in an account separate from other funds or accounts. There shall be credited to the fund all amounts collected pursuant to subsection (b) and any income derived from the investment of amounts credited to the fund.

(b) There shall be credited to the fund any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, and any gifts, grants, private contributions, repayment of loans and investment income earned on the fund's assets and all other sources, 50 per cent of all amounts collected pursuant to section 11, 50 per cent of all amounts collected pursuant to section 12, all amounts collected pursuant to section 26, all amounts held by the department, including but not limited to, the funds authorized by section 28 of chapter 796 of the acts of 1979, section 3 of chapter 700 of the acts of 1982, section 1 of chapter 670 of the acts of 1987, all amounts collected pursuant to the "alternative compliance payment" program as part of the Renewable Portfolio Standard established by the Commissioner pursuant to 220 CMR 14.09, all amounts collected by the commonwealth pursuant to the carbon dioxide allowance trading mechanism established pursuant to the Regional Greenhouse Gas Initiative Memorandum of Understanding, all amounts paid to the commonwealth pursuant to the ISO New England Demand Response Program, all amounts paid to the commonwealth pursuant to the Forward Capacity Market program administered by ISO New England, all amounts directed to this Fund by federal or state law enforcement authorities pursuant to settlements of law enforcement claims against third parties. All amounts credited to the fund shall be held in trust and used solely for activities and expenditures consistent with the public purpose of the fund as set forth in subsection (d) of this section and in no case shall any money remaining in the fund at the end of a fiscal year revert to the General Fund.

(c) The undersecretary, in consultation with the advisory board established pursuant to subsection (h), may draw upon monies in the fund for the public purpose of generating the maximum economic and environmental benefits over time to the ratepayers of the commonwealth from clean energy through a series of initiatives which exploit the advantages of clean energy in a more competitive energy marketplace by promoting the increased availability, use, and affordability of clean energy, by making operational improvements to existing clean energy projects and facilities which, in the determination of the

undersecretary, have achieved results which would indicate that future investment in said facilities would yield results in the development of clean energy more significant if said funds were made available for the creation of new clean energy facilities, and by fostering the formation, growth, expansion, and retention within the commonwealth of preeminent clusters of clean energy and related enterprises, institutions, and projects, which serve the citizens of the commonwealth.

(d) The public purposes to be advanced through the undersecretary's actions shall include, but not be limited to, the following: (i) developing, permitting, and constructing clean energy projects, or procuring the development, permitting or construction of clean energy projects, thereby increasing the use and affordability of clean energy resources in the commonwealth; (ii) protecting the environment and the health of the citizens of the commonwealth through the prevention, mitigation, and alleviation of the adverse pollution effects associated with certain electricity generation facilities; (iii) ensuring delivery to all consumers of the commonwealth of as many benefits as possible created as a result of increased fuel and supply diversity; (iv) creating additional employment opportunities in the commonwealth through the development of clean energy technologies; (v) stimulating increased public and private sector investment in, and competitive advantage for, clean energy and related enterprises, institutions, and projects in the commonwealth; (vi) stimulating entrepreneurial activities in these and related enterprises, institutions, and projects; (vii) providing non-financial assistance for the development, permitting, and construction of clean energy projects; (viii) entering into bulk purchasing agreements for energy, renewable energy credits, or clean energy equipment; (ix) providing economic assistance for the growth and development of a clean energy sector; and (x) undertaking any other action consistent with provisions of this chapter.

(e) In furtherance of these and other public purposes and interests, the undersecretary may, in consultation with the advisory board established pursuant to subsection (h), expend monies from the fund to make grants, contracts, loans, equity investments, energy production credits, bill credits, or rebates to customers, to provide financial or debt service obligation assistance, or to take any other actions, in such forms, under such terms and conditions and pursuant to such selection procedures as the undersecretary deems appropriate and otherwise in a manner consistent with good business practices; provided, however, that the undersecretary shall generally employ a preference for competitive procurements; provided, further, that the undersecretary shall endeavor to leverage the full range of the resources, expertise, and participation of other state and federal agencies and instrumentalities in the design and implementation of programs under this section; and provided, further, that the

undersecretary has determined that such actions are calculated to advance the public purpose and public interests set forth in this section, including, but not limited to, the following: (i) the growth of the clean energy-provider industry; (ii) the use of clean energy by electricity customers in the commonwealth; (iii) public education and training regarding clean energy; (iv) product and market development; (v) pilot and demonstration projects and other activities designed to increase the use and affordability of clean energy resources by and for consumers in the commonwealth; (vi) the provision of financing in support of the development and application of related technologies at all levels, including, but not limited to, basic and applied research and commercialization activities; (vii) the design and making of improvements to existing clean energy projects and facilities as defined herein which were in operation as of December 31, 1997; and (viii) matters related to the conservation of scarce energy resources. Provided, however, that the undersecretary shall not authorize an expenditure or contractual commitment in excess of \$1,000,000.00 without first obtaining the written approval of the secretary.

The undersecretary shall, in consultation with the advisory board established pursuant to subsection (h), adopt a detailed plan for the application of the fund in support of the design, implementation, evaluation, and assessment of a clean energy program for the commonwealth, subject to periodic revision by the undersecretary, that ensures that the fund shall be employed to provide financial and non-financial resources to overcome barriers facing clean energy enterprises, institutions, and projects in a prudent manner consistent with the public purposes and interests set forth in this section. Said plan, to the extent practicable, shall consist of at least four components: (i) "product and market development" to establish a foundation for growth and expansion of the commonwealth's clean energy enterprises, institutions, and projects, including pilot and demonstration projects, production incentives, and other activities designed to increase the use and affordability of clean energy in the commonwealth; (ii) "training and public information" to allow for the development and dissemination of complete, objective, and timely information, analysis, and policy recommendations related to the advancement of the public purposes and interests of the clean energy fund; (iii) "investment" to support the growth and expansion of clean energy enterprises, institutions, and projects; and (iv) "research and development" within the commonwealth related to clean energy matters. Said plan shall specify the expenditure of such monies from the fund to each of these component activities; provided, however, that monies so expended shall be used to develop such clean energy projects within the commonwealth. In developing said plan, the undersecretary is hereby authorized and directed to consult with and utilize the services of the executive office for such technical assistance as the undersecretary deems necessary or appropriate to the effective discharge of his responsibilities and duties relative to the fund.

(f) Subject to the approval of the undersecretary, investment activity of monies from the fund may consist of the following: (i) an equity fund, to provide risk capital to clean energy enterprises, institutions, and projects; (ii) a debt fund, to provide loans to clean energy enterprises, institutions, projects, intermediaries, and end-users; and (iii) a market growth assistance fund, to be used to attract private capital to the equity and debt funds. To implement these investment activities, the undersecretary is hereby authorized to retain, through a competitive bid process, a public or private sector investment fund manager or managers, who shall have prior knowledge and experience in fund management and possess related skills in clean energy and related technologies development, to direct the investment activity described herein and to seek other fund co-sponsors to contribute public and private capital from the commonwealth and other states; provided, however, that such capital is appropriately segregated. Said manager or managers, subject to the approval of the undersecretary, shall be authorized to retain necessary services and consultants to carry out the purposes of the fund. Said manager or managers shall develop a business plan to guide investment decisions, which shall be approved by the undersecretary prior to any expenditures from the fund and which shall be consistent with the provisions of the plan for the fund as adopted by the undersecretary.

(g) For the purposes of expenditures from the fund, clean energy technologies eligible for assistance shall include the following: solar photovoltaic and solar thermal electric energy; wind energy; ocean thermal, wave, or tidal energy; geothermal; fuel cells; landfill gas; naturally flowing water and hydroelectric; low emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel; energy efficiency measures; combined heat and power facilities; distributed generation facilities; demand response initiatives; and storage and conversion technologies connected to qualifying generation projects. Such funds may also be used for investment by distribution companies to overcome barriers to clean energy development, if consistent with the provisions of this section. The following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas, except when used in fuel cells, and nuclear power.

(h) The undersecretary is hereby authorized to transfer amounts from the fund to, and enter into funding or subsidy agreements with, the agency; provided, however, that the undersecretary shall not transfer more than 50 per cent of the revenue deposited into the fund pursuant to sections 11 and 12 to the agency in any one fiscal year. Notwithstanding any provision of chapter 23G or any other general or special law to the contrary, amounts transferred to the agency shall be applied to make loans to users as defined in said chapter 23G for

the purpose of financing or refinancing costs of clean energy projects approved by the undersecretary, or to insure or provide loan guarantees for loans, or to provide reserves for or otherwise secure bonds of the agency issued for such purpose, or to provide for or otherwise subsidize debt service costs on such loans or other forms of financial assistance or such bonds, as agreed in an operating or other agreement between the agency and the undersecretary. Any such amounts transferred to the agency shall be held and applied by the agency separate and apart from all other monies of the agency.

(i) In addition to the powers granted pursuant to [chapter 23G](#) and [chapter 40D](#) of the General Laws, the agency is hereby authorized to borrow money and issue and secure its bonds for the purpose of financing clean energy generating facilities, clean energy research and development facilities and clean energy manufacturing facilities, as provided in, and subject to, the provisions of this act; provided further that the provisions of said chapters 23G and 40D of the General Laws shall apply to bonds issued under this section, except that the provisions of subsection (b) of [section 8 of said chapter 23G](#) and [section 12 of said chapter 40D](#) shall not apply to bonds issued pursuant to this act or to the clean energy generating facilities, clean energy research and development facilities or clean energy manufacturing facilities financed thereby; and provided further, that clean energy generating facilities, clean energy research and development facilities and clean energy manufacturing facilities financed by the agency pursuant to this act shall constitute a project within the meaning of section 1 of said chapter 23G and section 1 of said chapter 40D, but shall not be considered facilities to be used in a commercial enterprise.

(j) Prior to financing any clean energy generating facilities, clean energy research and development facilities and clean energy manufacturing facilities in accordance with this section, the agency shall find and determine that: (i) the clean energy generating facility, clean energy research and development facility or clean energy manufacturing facility has been approved by the undersecretary upon a finding by the undersecretary that the financing of said facility is expected to promote the use of clean, renewable or alternative energy resources in the commonwealth and help to achieve the public purposes of this chapter; (ii) the recipient is a responsible party; (iii) the agency's bonds, if any, and the financing documents therefore contain reasonable provisions and comply with the applicable provisions of this chapter and chapter 23G and 40D; and (iv) payments to be made under the applicable financing documents, including any moneys made available from the fund, are adequate to pay the current expenses of the agency in connection with the clean energy project and to make payments on the bonds, if any, issued by the agency therefore.

(k) In addition to the provisions of said [chapter 23G](#) and said [chapter 40D](#) of the General Laws pertaining to the security of bonds issued by the agency, bonds issued by the agency pursuant to this act may be secured by funds received, or to be received, by the agency as provided in this section. Bonds issued pursuant to this act may be issued under, and secured by, a trust agreement or other financing document with such terms and conditions as the agency may determine in accordance with this act and the applicable provisions of said chapter 23G and said chapter 40D.

(l) Bonds issued by the agency pursuant to this act shall not be deemed to be a debt or a pledge of the faith and credit of the commonwealth or any political subdivision thereof and shall be payable solely from revenue received from the fund and from any other monies and rights pledged for their payment. All bonds issued by the agency pursuant to this act shall recite that neither the commonwealth nor any political subdivision thereof shall be obligated to pay the same and neither the full faith and credit nor the taxing power of the commonwealth or any political subdivision thereof is pledged to such payment.

(m) Nothing in this act shall be construed to limit or otherwise diminish the power of the agency to finance the costs of projects authorized pursuant to said chapter 23G and said chapter 40D within a certified economic development project upon compliance with the provisions of said [chapter 23G](#) and said [chapter 40D](#).

(n) The use by the undersecretary of monies to implement the provisions of this section shall be deemed to be an essential governmental function.

(o) The governor shall appoint an advisory committee to assist the undersecretary in matters related to the fund and in the implementation of the provisions of this section. Said advisory committee shall include not more than 15 individuals with an interest in matters related to the general purpose and activities of the fund and the knowledge and experience in at least one of the following areas: electricity distribution, generation, supply, or power marketing; the concerns of commercial and industrial ratepayers; residential ratepayers, including low-income ratepayers; economics, financial or investment consulting expertise relative to the fund; regional environmental concerns; academic issues related to power generation, distribution or the development or commercialization of renewable energy sources; institutions of higher education; municipal or regional aggregation matters; and renewable and clean energy issues. The undersecretary shall consult with said advisory committee in discharging his obligations under this section.

(p) The books and records of the executive office relative to expenditures and investments of monies from the fund shall be subject to a biennial audit by the auditor of the commonwealth.

(q) Notwithstanding any general or special law to the contrary, including without limitation any laws related to the procurement of electricity, and subject to this paragraph, the undersecretary shall, upon the written request of the governor, transfer monies in the fund, in an amount not exceeding \$17 million in the aggregate, to the commonwealth for deposit in the General Fund. As a condition precedent to any such transfer, the commonwealth, acting by and through the executive office for administration and finance, shall enter into an agreement with the executive office under which the commonwealth, at the direction of the executive office, shall enter into 1 or more contracts with owners of facilities that generate electricity using renewable energy technologies, or with wholesale power marketers or other market intermediaries selling such electricity, for the purchase by the commonwealth, for its own use or for the use of any municipal electric department, public instrumentality or other governmental or nongovernmental entity in the commonwealth, of electricity produced by renewable energy technologies. The undersecretary shall determine the particular type or types of technologies which shall be the subject of any such contract based on such criteria as it shall deem advisable, including without limitation retail consumer choices of such renewable energy technologies. The aggregate dollar amount of the green power premium associated with electricity purchases to be made by the commonwealth for its own use under such contracts shall have a present value, determined according to such discount rate as shall be mutually agreeable to the corporation and the commonwealth, of such amount as shall be transferred pursuant to the first sentence of this paragraph. The green power premium shall be determined by subtracting from the total amount of the purchase price the undifferentiated commodity price for electricity under then-current commonwealth contracts. No payments shall be required from the commonwealth pursuant to any such contract prior to the fiscal year ending June 30, 2005, and the maximum payment in any 1 fiscal year under all such contracts shall not exceed \$5 million. The commonwealth shall be indemnified under such contracts by said owners or power marketers on such terms as the corporation shall deem commercially reasonable. The amounts collected under section 12 are impressed with a trust for the benefit of the fund and, to facilitate the purchase by the executive office of electricity produced by renewable energy technologies or the purchase of certificates produced pursuant to the renewable energy portfolio standard regulations of the department representing the generation attributes of electrical energy produced by renewable energy technologies, and in consideration of the sale of such electricity or certificates, the commonwealth covenants with the sellers of such electricity or certificates that the amounts collected under said section 12 will not be diverted from the

fund and that the rates of the mandatory charges pursuant to said section 12 will not be reduced during the term, which shall not exceed 20 years, of any contract entered into by the executive office for the purchase of such electricity or certificates below a level which will enable the executive office to fulfill the terms of such contracts. In furtherance of the public purposes of the fund, income derived from the investment of amounts collected under section 12 shall be expended by the executive office as provided in subsection (a) and, in the discretion of the executive office, in furtherance of the public purposes of the executive office and for such costs of departments and agencies of the commonwealth that support or are otherwise consistent with the purposes of the fund.

(r) The department shall, pursuant to chapter 30A, within 180 days of the effective date of this act promulgate rules and regulations and establish guidelines for the administration and enforcement of this section, including, but not limited to, establishing applicant criteria, application forms and procedures, and clean energy product requirements.

(s) The undersecretary shall annually, no later than July 1, file a report with the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy and the joint committee on economic development and emerging technologies. Said report shall include: (i) a list of fund recipients; (ii) the associated grant and loan amounts; (iii) the amounts of non-ratepayer funding leveraged, if any, as a result of the grants and loans, including in-kind and other non-cash contributions; (iv) the purposes of the grants and loans; (v) an annual statement of cash inflows and outflows detailing the sources and uses of funds; (vii) a detailed breakdown of all investments made by the fund pursuant to subsection (e); and (viii) a detailed breakdown of the purposes and amounts of administrative costs, including salaries, charged to the fund

(t) Notwithstanding the provisions of subsection (1), the undersecretary shall not authorize an expenditure or contractual commitment in excess of \$1,000,000.00 without first obtaining the written approval of the secretary.

Section 24. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts Energy Efficiency Trust Fund, hereinafter in this section referred to as the fund. The undersecretary shall hold the fund in an account separate from other funds or accounts. There shall be credited to the fund any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, and any gifts, grants, private contributions, investment income earned on the fund's assets and all other sources and all amounts

collected pursuant to section 11 and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and used solely for activities and expenditures consistent with the public purpose of the fund as set forth in subsection (b) of this section and in no case shall any money remaining in the fund at the end of a fiscal year revert to the General Fund.

(b) The public purpose of the fund shall be to provide financial assistance in the form of grants, loans or rebates to finance the costs of energy efficiency activities, including but not limited to, energy conservation measures and projects, procurement of energy management services, installation of energy management systems, adoption of demand side reduction initiatives, adoption of energy efficiency policies, promoting the development of green buildings, and any other demand side reduction initiatives the undersecretary may deem appropriate.

The department shall develop a list of qualified home improvement contractors registered pursuant to the provisions of chapter 142A of the General Laws and qualified to construct, install and complete energy conservation measures, energy conservation projects and energy management systems. Only energy conservation measures, energy conservation projects and energy management systems completed, constructed or installed by qualified home improvement contractors on said list compiled by the undersecretary or those energy conservation measures, energy conservation projects and energy management systems completed, constructed or installed via the low-income weatherization and fuel assistance program network shall qualify for funding pursuant to this section.

(c) In approving demand-side management programs authorized by subsection (b) the department shall, without limitation, ensure: (i) that energy efficiency funds are allocated equitably among customer classes throughout the commonwealth; (ii) that there will be adequate support for “lost opportunity” efficiency programs in areas such as new construction, remodeling, and replacement of worn-out equipment; (iii) that due consideration is given to statewide market transformation programs in order to systematically eliminate market barriers to energy efficiency goods and services; (iv) that at least 20 per cent of the amount annually expended for residential demand-side management programs by the department in any year, and in no event less than the amount funded by a charge of 0.25 mills per kilowatt-hour, shall be spent on comprehensive low-income residential demand-side management and education programs, provided said programs shall be implemented through the low-income weatherization and fuel assistance program network and shall be coordinated with all gas and distribution companies in the commonwealth with the objective

of standardizing implementation; (vi) that at least 20 per cent of the amount annually deposited into the fund pursuant is dedicated to funding the energy efficiency and green communities program established pursuant to section 5; and (vi) that programs are delivered in a cost-effective manner utilizing competitive procurement processes to the fullest extent practicable.

(d) The undersecretary is hereby authorized to transfer amounts from the fund to, and enter into funding or subsidy agreements with, the agency; provided, however, that the undersecretary shall not transfer more than 50 per cent of the revenue deposited into the fund pursuant to sections 11 and 12 to the agency in any one fiscal year. Notwithstanding any provision of chapter 23G or any other general or special law to the contrary, amounts transferred to the agency shall be applied to make loans to users as defined in said chapter 23G for the purpose of financing or refinancing costs of clean energy projects approved by the undersecretary, or to insure or provide loan guarantees for loans, or to provide reserves for or otherwise secure bonds of the agency issued for such purpose, or to provide for or otherwise subsidize debt service costs on such loans or other forms of financial assistance or such bonds, as agreed in an operating or other agreement between the agency and the undersecretary. Any such amounts transferred to the agency shall be held and applied by the agency separate and apart from all other monies of the agency.

(e) In addition to the powers granted pursuant to [chapter 23G](#) and [chapter 40D](#) of the General Laws, the agency is hereby authorized to borrow money and issue and secure its bonds for the purpose of financing clean energy generating facilities, clean energy research and development facilities and clean energy manufacturing facilities, as provided in, and subject to, the provisions of this act; provided further that the provisions of said chapters 23G and 40D of the General Laws shall apply to bonds issued under this section, except that the provisions of subsection (b) of [section 8 of said chapter 23G](#) and [section 12 of said chapter 40D](#) shall not apply to bonds issued pursuant to this act or to the clean energy generating facilities, clean energy research and development facilities or clean energy manufacturing facilities financed thereby; and provided further, that clean energy generating facilities, clean energy research and development facilities and clean energy manufacturing facilities financed by the agency pursuant to this act shall constitute a project within the meaning of section 1 of said chapter 23G and section 1 of said chapter 40D, but shall not be considered facilities to be used in a commercial enterprise.

(f) Prior to financing any clean energy generating facilities, clean energy research and development facilities and clean energy manufacturing facilities in accordance with this section, the agency shall find and determine that: (i) the clean energy generating facility, clean energy research and development facility

or clean energy manufacturing facility has been approved by the undersecretary upon a finding by the undersecretary that the financing of said facility is expected to promote the use of clean, renewable or alternative energy resources in the commonwealth and help to achieve the public purposes of this chapter; (ii) the recipient is a responsible party; (iii) the agency's bonds, if any, and the financing documents therefore contain reasonable provisions and comply with the applicable provisions of this chapter and chapter 23G and 40D; and (iv) payments to be made under the applicable financing documents, including any moneys made available from the fund, are adequate to pay the current expenses of the agency in connection with the clean energy project and to make payments on the bonds, if any, issued by the agency therefore.

(g) In addition to the provisions of said [chapter 23G](#) and said [chapter 40D](#) of the General Laws pertaining to the security of bonds issued by the agency, bonds issued by the agency pursuant to this act may be secured by funds received, or to be received, by the agency as provided in this section. Bonds issued pursuant to this act may be issued under, and secured by, a trust agreement or other financing document with such terms and conditions as the agency may determine in accordance with this act and the applicable provisions of said chapter 23G and said chapter 40D.

(h) Bonds issued by the agency pursuant to this act shall not be deemed to be a debt or a pledge of the faith and credit of the commonwealth or any political subdivision thereof and shall be payable solely from revenue received from the fund and from any other monies and rights pledged for their payment. All bonds issued by the agency pursuant to this act shall recite that neither the commonwealth nor any political subdivision thereof shall be obligated to pay the same and neither the full faith and credit nor the taxing power of the commonwealth or any political subdivision thereof is pledged to such payment.

(i) Nothing in this act shall be construed to limit or otherwise diminish the power of the agency to finance the costs of projects authorized pursuant to said chapter 23G and said chapter 40D within a certified economic development project upon compliance with the provisions of said [chapter 23G](#) and said [chapter 40D](#).

(j) The department shall, pursuant to chapter 30A, within 180 days of the effective date of this act promulgate rules and regulations and establish guidelines for the administration and enforcement of this section, including, but not limited to, establishing applicant criteria, application forms and procedures, and clean energy product requirements.

(k) The books and records of the executive office relative to expenditures and investments of monies from the fund shall be subject to a biennial audit by the auditor of the commonwealth.

(l) The undersecretary shall annually, no later than July 1, report to the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy and the joint committee on economic development and emerging technologies. Said report shall include: (i) a list of grant and loan recipients; (ii) the associated grant and loan amounts; (iii) the amounts of non-ratepayer funding leveraged, if any, as a result of the grants and loans, including in-kind and other non-cash contributions; (iv) the purposes of the grants and loans; (v) an annual statement of cash inflows and outflows detailing the sources and uses of funds; and (vii) a detailed breakdown of the purposes and amounts of administrative costs charged to the fund.

Section 25. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts Renewable Energy Trust Fund, hereinafter in this section referred to as the fund. The undersecretary shall hold the fund in an account separate from other funds or accounts. There shall be credited to the fund any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, and any gifts, grants, private contributions, investment income earned on the fund's assets and all other sources and all amounts collected pursuant to section 12 and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and used solely for activities and expenditures consistent with the public purpose of the fund as set forth in subsection (b) of this section and in no case shall any money remaining in the fund at the end of a fiscal year revert to the General Fund.

(b) The public purpose of the fund shall be to provide financial assistance in the form of grants or loans to finance the costs of renewable energy activities; provided, however, that in furtherance of the public purposes and interests set forth herein, the undersecretary shall, on an annual basis, make the following appropriations from the fund: (i) 40% of the amount annually deposited in the fund shall be used to fund the energy efficiency and green communities program established pursuant to section 5; (ii) 40% of the amount annually deposited in the fund shall be used to fund the residential installation of renewable energy technologies, including 10% in the form of grants to residential ratepayers and 10% in the form of low interest loans to residential ratepayers; and (iii) 20% of the amount annually deposited in the fund shall be used to fund a program, to be established by the undersecretary, to issue grants to developers of green buildings.

The department shall develop a list of qualified home improvement contractors registered pursuant to the provisions of chapter 142A of the General Laws and qualified to construct, install and complete renewable energy projects. Only renewable energy projects completed, constructed or installed by qualified home improvement contractors on said list compiled by the undersecretary or those renewable energy projects completed, constructed or installed via the low-income weatherization and fuel assistance program network shall qualify for funding pursuant to this section.

(c) The undersecretary is hereby authorized to transfer amounts from the fund to, and enter into funding or subsidy agreements with, the agency; provided, however, that the undersecretary shall not transfer more than 50 per cent of the revenue deposited into the fund pursuant to sections 11 and 12 to the agency in any one fiscal year. Notwithstanding any provision of chapter 23G or any other general or special law to the contrary, amounts transferred to the agency shall be applied to make loans to users as defined in said chapter 23G for the purpose of financing or refinancing costs of clean energy projects approved by the undersecretary, or to insure or provide loan guarantees for loans, or to provide reserves for or otherwise secure bonds of the agency issued for such purpose, or to provide for or otherwise subsidize debt service costs on such loans or other forms of financial assistance or such bonds, as agreed in an operating or other agreement between the agency and the undersecretary. Any such amounts transferred to the agency shall be held and applied by the agency separate and apart from all other monies of the agency.

(d) In addition to the powers granted pursuant to [chapter 23G](#) and [chapter 40D](#) of the General Laws, the agency is hereby authorized to borrow money and issue and secure its bonds for the purpose of financing clean energy generating facilities, clean energy research and development facilities and clean energy manufacturing facilities, as provided in, and subject to, the provisions of this act; provided further that the provisions of said chapters 23G and 40D of the General Laws shall apply to bonds issued under this section, except that the provisions of subsection (b) of [section 8 of said chapter 23G](#) and [section 12 of said chapter 40D](#) shall not apply to bonds issued pursuant to this act or to the clean energy generating facilities, clean energy research and development facilities or clean energy manufacturing facilities financed thereby; and provided further, that clean energy generating facilities, clean energy research and development facilities and clean energy manufacturing facilities financed by the agency pursuant to this act shall constitute a project within the meaning of section 1 of said chapter 23G and section 1 of said chapter 40D, but shall not be considered facilities to be used in a commercial enterprise.

(e) Prior to financing any clean energy generating facilities, clean energy research and development facilities and clean energy manufacturing facilities in accordance with this section, the agency shall find and determine that: (i) the clean energy generating facility, clean energy research and development facility or clean energy manufacturing facility has been approved by the undersecretary upon a finding by the undersecretary that the financing of said facility is expected to promote the use of clean, renewable or alternative energy resources in the commonwealth and help to achieve the public purposes of this chapter; (ii) the recipient is a responsible party; (iii) the agency's bonds, if any, and the financing documents therefore contain reasonable provisions and comply with the applicable provisions of this chapter and chapter 23G and 40D; and (iv) payments to be made under the applicable financing documents, including any moneys made available from the fund, are adequate to pay the current expenses of the agency in connection with the clean energy project and to make payments on the bonds, if any, issued by the agency therefore.

(f) In addition to the provisions of said [chapter 23G](#) and said [chapter 40D](#) of the General Laws pertaining to the security of bonds issued by the agency, bonds issued by the agency pursuant to this act may be secured by funds received, or to be received, by the agency as provided in this section. Bonds issued pursuant to this act may be issued under, and secured by, a trust agreement or other financing document with such terms and conditions as the agency may determine in accordance with this act and the applicable provisions of said chapter 23G and said chapter 40D.

(g) Bonds issued by the agency pursuant to this act shall not be deemed to be a debt or a pledge of the faith and credit of the commonwealth or any political subdivision thereof and shall be payable solely from revenue received from the fund and from any other monies and rights pledged for their payment. All bonds issued by the agency pursuant to this act shall recite that neither the commonwealth nor any political subdivision thereof shall be obligated to pay the same and neither the full faith and credit nor the taxing power of the commonwealth or any political subdivision thereof is pledged to such payment.

(h) Nothing in this act shall be construed to limit or otherwise diminish the power of the agency to finance the costs of projects authorized pursuant to said chapter 23G and said chapter 40D within a certified economic development project upon compliance with the provisions of said [chapter 23G](#) and said [chapter 40D](#).

(i) The department shall, pursuant to chapter 30A, within 180 days of the effective date of this act promulgate rules and regulations and establish

guidelines for the administration and enforcement of this section, including, but not limited to, establishing applicant criteria, application forms and procedures, and clean energy product requirements.

(j) The books and records of the executive office relative to expenditures and investments of monies from the fund shall be subject to a biennial audit by the auditor of the commonwealth.

(k) The undersecretary shall annually, no later than July 1, report to the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy and the joint committee on economic development and emerging technologies. Said report shall include: (i) a list of grant and loan recipients; (ii) the associated grant and loan amounts; (iii) the amounts of non-ratepayer funding leveraged, if any, as a result of the grants and loans, including in-kind and other non-cash contributions; (iv) the purposes of the grants and loans; (v) an annual statement of cash inflows and outflows detailing the sources and uses of funds; and (vii) a detailed breakdown of the purposes and amounts of administrative costs charged to the fund.

Section 26. The department may apply for, receive, retain, redeem, sell or transfer any energy conservation credits, renewable energy certificates or credits, emissions credits, or energy reduction allowances earned or received by the commonwealth including but not limited to allowances awarded through the public benefit set-aside provisions of the NOx Allowance Trading Program implemented by the department of environmental protection.

Section 27. The department shall develop a statewide plan relative to alternative and renewable energy development. The department shall have the authority to collect price, inventory and product delivery data, including amounts and types of product sold, and other information which is specifically necessary and material regarding petroleum products, electricity, natural gas, and other fuels available for supply within the commonwealth from wholesalers and resellers of petroleum products, electricity, natural gas, and suppliers of other fuels, doing business in the commonwealth. Except as herein provided, all energy information collected by the department under this section shall be maintained for the sole and confidential use of the commonwealth, its agencies and offices. Such information shall not be deemed to be a public record as defined in clause 26 of section 7 of chapter 4 and shall not be subject to demand for production under section 10 of chapter 66; provided, however, that aggregates of such energy information may be prepared and such aggregates shall be public records; provided, further, that all energy information collected

under this section may be shared with the energy offices of other states which afford such information similar protection from public disclosure.

All wholesalers, resellers, and end-users of petroleum products doing business in the commonwealth with total storage capacity of over 55,000 gallons shall make accurate reports to the department in such form and at such times as the department shall require.

All electric and gas companies, transmission companies, distribution companies, suppliers, and aggregators, as defined in section 1 of chapter 164, and suppliers of natural gas, including aggregators, marketers, brokers, and marketing affiliates of gas companies, excluding gas companies as defined in said section 1 of said chapter 164, engaged in distributing or selling electricity or natural gas in the commonwealth shall make accurate reports to the department in such form and at such times, which shall be at least quarterly, as the department shall require pursuant to this section. Each such company, supplier, and aggregator shall report semi-annually to the department the average of all rates charged for default, low-income and standard offer service to each customer class and for each sub-class within the residential class, respectively; provided, however, that all such rate information so reported pursuant to this paragraph shall be deemed public information, and no such rate information shall be protected as a trade secret, confidential, competitively sensitive, or other proprietary information pursuant to section 68 (section 5D of 25). The department shall annually develop and issue, no later than March 1, a report which shall detail the status in the previous calendar year of pricing disparities between customer class and separately within the residential class, regions of the commonwealth, and distribution companies and suppliers serving ratepayers; provided, however, that said report shall also include a comparison of each customer class in the commonwealth as compared with the same classes in each of the 49 other states and the District of Columbia. Said report shall analyze the effects of restructuring plans, filed with and approved by said department pursuant to section 1A of chapter 164, upon such price disparities. The department may include in such report any recommendations to address any such problems and price disparities.

Any wholesaler, reseller or end-user of petroleum products, or any supplier of electricity or natural gas covered by this section who violates the provisions of this chapter or who knowingly supplies information of a false or misleading nature shall be subject to a civil penalty not to exceed \$5,000 per offense.

Section 28. To assist the office in the discharge of its duties, the department may request from any agency or political subdivision of the commonwealth any information relevant to the discharge of such duties.

An information copy of each application submitted by any state agency, including all state institutions of higher learning or any political subdivision of any public agency, for a grant or loan with respect to any energy development or energy conservation program, including the acquisition of land and facilities for these purposes, shall be filed with the department no later than the twentieth day after submission of said application.

Section 29. The undersecretary is hereby authorized and directed to establish (i) an energy audit program to determine the energy consumption levels of and appropriate energy conservation measures for buildings and facilities owned by (a) the commonwealth, (b) its political subdivisions, (c) public authorities and other public instrumentalities of the commonwealth and of its political subdivisions including, but not limited to, housing authorities and (ii) an energy conservation improvement program to carry out and assist energy conservation projects including energy conservation measures, for such buildings and facilities.

Said undersecretary is hereby authorized and directed to establish an alternative energy property program to provide alternative energy sources for buildings and facilities owned by the commonwealth, its political subdivisions, public authorities and other public instrumentalities of the commonwealth and of its political subdivisions including, but not limited to, housing authorities and those buildings and facilities leased by the political subdivisions of the commonwealth for at least thirty years and which are used for the provision of local government services; provided, however, that the period of time remaining prior to the expiration of said lease shall not be less than twice the payback period, so-called, for any proposed alternative energy property program project and technology.

Prior to approving any payment under said program with respect to premises leased by a political subdivision of the commonwealth, the undersecretary shall certify that the terms of such lease are such that any benefit accruing to a private party from such financing is incidental to the public purpose served by such financing.

The undersecretary is hereby authorized to promulgate rules and regulations for the energy audit program, the energy conservation improvement program and the alternative energy property program. Said rules and regulations

shall set forth (1) procedures by which entities other than the commonwealth may request participation in the program, (2) an orderly method for selecting state projects and for selecting among the request of other entities for participation in the program, (3) guidelines for carrying out projects pursuant to the program, (4) the portions to be borne by the commonwealth of the costs of projects of entities other than the commonwealth, or the manner of determining the same, and (5) the time and manner of payment. In selecting projects and in determining the portions to be borne by the commonwealth of the cost of projects of other entities the undersecretary shall consider the payback period, availability of federal financial resources, the type of project, and the public benefit likely to be derived, whether from proven technology or from the opportunity to demonstrate innovative technology.

With respect to any grants of funds of the commonwealth made to, or grant agreements involving funds of the commonwealth entered into with any city, town, sewer district or regional school district after January 1, 1984, the undersecretary shall require that a portion of such grant be repaid to the commonwealth. The required repayment amount shall not be less than 30 per cent of the amount of any such grant and the time period allowed for such repayment shall not exceed 10 years from the date of such grant. Any city, town or regional school district which does not provide the undersecretary with information relating to energy expenses incurred prior to the implementation of energy conservation projects or measures, or alternative energy property program projects or technologies for the purpose of monitoring energy savings resulting from such implementation shall repay not less than 50 per cent of such grant and the time period allowed for repayment shall not exceed 10 years from the date of such grant. To facilitate repayment of any grant amount the undersecretary may require the city, town, or regional school district to authorize the commissioner of revenue to deduct the amount of its repayment due in each fiscal year from any local aid distribution, grant or appropriation made to the city, town, sewer district or regional school district. Any amounts so deducted shall be paid into the General Fund.

The undersecretary may enter into contracts to carry out state projects pursuant to the programs established in this section and enter into grant agreements and make grants to assist projects of other entities as set forth in this section. The political subdivisions of the commonwealth and the public authorities and other public instrumentalities of the commonwealth and of its political subdivision are hereby authorized to enter into and perform grant agreements with the commissioner and carry out projects pursuant to this section.

The undersecretary is hereby authorized to enter into agreements with the federal government to receive grants of money for the purpose of this section and to provide state matching funds for such purposes when required by the federal government under such grants.

Section 30. (a) The undersecretary is hereby authorized to prepare a state plan and to promulgate such regulations as may be necessary to implement the Massachusetts commercial and apartment conservation service program, including requiring all utilities, as defined in section 1 of chapter 465 of the acts of 1980, to offer the program requirements to qualified customers, as determined by the undersecretary, subject to the approval of the secretary, in such manner and at such times as the undersecretary, with the approval of the secretary, may require, and to establish and regulate the fees to be charged by utilities for such services. The undersecretary, with the approval of the secretary, is hereby authorized to adopt such additional state program requirements beyond the minimum federal program requirements, established in accordance with Title VII of the National Energy Conservation Policy Act, Public Law 95–619, which are found to be in the public interest.

(b) The undersecretary shall have the power to enforce the provisions of said program pursuant to the same remedies and procedures established in section 8 of said chapter 465, including, without limiting the foregoing, the authority to assess civil penalties up to \$25,000 against any person, utility, energy auditor, supplier, installer, or lender participating under the state plan who violates any provision of the plan, or this section, or any rule or order adopted or issued hereunder.

Section 31. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Building authority”, the University of Massachusetts Building Authority, the Southeastern Massachusetts University Building Authority, the University of Lowell Building Authority or any other building authority which may be established for similar purposes.

“Eligible”, able to meet all requirements for offerors or bidders set forth in this section and section 44D of chapter 149 and not debarred from bidding under section 44C of said chapter 149 or any other applicable law, and who shall certify that he or she is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work.

“Governmental body”, a city, town, district, regional school district, county, or agency, board, commission, authority, department or instrumentality of a city, town, district, regional school district or county, and all other public agencies which are not a state agency or building authority.

“Minor informalities”, minor deviations, insignificant mistakes, and matters of form rather than substance of the proposal or contract document which can be waived or corrected without prejudice to other offerors, potential offerors, or the public agency.

“Person”, any natural person, business, partnership, corporation, union, committee, club, or other organization, entity or group of individuals.

“Public agency”, a department, agency, board, commission, authority, or other instrumentality of the commonwealth or political subdivision of the commonwealth or 2 or more subdivisions thereof.

“Responsible”, demonstrably possessing the skill, ability and integrity necessary to faithfully perform the work called for by a particular contract, based upon a determination of competent workmanship and financial soundness in accordance with the provisions of this section and section 44D of chapter 149.

“Responsive offeror”, a person who has submitted a proposal which conforms in all respects to the requests for proposals.

“State agency”, a state agency, board, bureau, department, division, section, or commission of the commonwealth.

(b) A public agency may, in the manner provided by this section, contract for the procurement of energy management services. Such contracts may include terms of 10 years or less. Contracts which include cogeneration projects shall have terms of 20 years or less. The public agency shall solicit competitive sealed proposals through a request for proposals. At least 1 week prior to soliciting proposals for a contract pursuant to this section, a public agency shall notify the undersecretary in writing, in such form and including such information as the undersecretary shall prescribe by regulation, of the agency’s intent to solicit proposals. Such notification shall, at a minimum, include a complete copy of the agency’s request for proposals. An acknowledgment of receipt, in such form and by including such information as the undersecretary shall prescribe by regulation, shall be issued to the public agency upon successful compliance with the requirements of this paragraph.

Requests for proposals for an energy management services contract to be entered into on behalf of a state agency or a building authority, shall be developed jointly by the division of capital asset management and maintenance and the using agency. Such proposals shall only be solicited by the division of capital asset management and maintenance after the commissioner of said division has given his prior written approval, and no contract for energy management services shall be valid unless approved and signed by said commissioner. Said commissioner may delegate to state agencies and building authorities the authority to enter into such contracts with an estimated construction cost of less than \$200,000. Such delegation shall be in writing from the commissioner to the regulating agency or building authority.

The request for proposals published by a public agency under this section shall include: (i) the time and date for receipt of proposals and the address of the office to which the proposals are to be delivered; (ii) a description of the services to be procured, including specific requirements and all evaluation criteria that will be utilized by the state agency or building authority; and (iii) proposed contract terms and conditions and an identification of such terms and conditions which shall be deemed mandatory and non-negotiable. The request for proposals may incorporate documents by reference, provided that the request for proposals specifies where prospective offerors may obtain the documents. The public agency shall make copies of the request for proposals available to all persons on an equal basis. Public notice of the request for proposals shall conform to the procedures set forth in subsection (1) of section 44J of chapter 149. Proposals shall be opened publicly, in the presence of 2 or more witnesses, at the time specified in the request for proposals, and shall be available for public inspection.

The provisions of sections 44A, 44B and 44E through 44H, inclusive, of chapter 149 shall not apply to contracts procured pursuant to this section. The provisions of section 44D of chapter 149 shall apply as appropriate to proposals submitted for contracts under this section, and every such proposal shall be accompanied by: (i) a copy of a certificate of eligibility issued by the commissioner of the division of capital asset management and maintenance; and (ii) an update statement. The offeror's qualifications shall be evaluated by the division of capital asset management and maintenance in a manner designated by the commissioner of said division. If the public agency determines that any offeror is not responsible or eligible, the public agency shall reject the offer and give written notice of such action to the division of capital asset management and maintenance.

State agencies and building authorities shall award contracts under this section to the lowest offeror demonstrably possessing the skill, ability, and integrity necessary to perform faithfully energy management services.

Payments under a contract for energy management services may be based in whole or in part on any cost savings attributable to a reduction in energy and water consumption due to the contractor's performance or revenues gained due to the contractor's services which are aimed at energy and water cost savings.

(c) The provisions of this subsection shall apply to a governmental body, as defined in this section, procuring contracts under this section.

Unless no other manner of description suffices, and the governmental body so determines in writing, setting forth the basis for the determination, all requirements shall be written in a manner which describes the requirements to be met without having the effect of exclusively requiring a proprietary supply or service or a procurement from a sole source.

Subject to a governmental body's authority to reject, in whole or in part, any and all proposals, as provided in this section, a governmental body shall unconditionally accept a proposal without alternation or correction, except as provided in this paragraph. An offeror may correct, modify, or withdraw a proposal by written notice received in the office designated in the request for proposals prior to the time and date set for opening the proposals. After proposal opening, an offeror may not change any provisions of the proposal in a manner prejudicial to the interests of the governmental body or fair competition. The governmental body shall waive minor informalities or allow the offeror to correct them. If a mistake and the intended proposal are clearly evident on the face of the proposal document, the governmental body shall correct the mistake to reflect the intended correction and so notify the offeror in writing, and the offeror may not withdraw the proposal. An offeror may withdraw a proposal if a mistake is clearly evident on the face of the proposal but the intended correction is not similarly evident.

The governmental body shall evaluate each proposal and award each contract based solely on the criteria set forth in the request for proposals. Such criteria shall include, but not be limited to, all standards by which the governmental body will evaluate responsiveness, responsibility, qualifications of the offeror, technical merit and cost to the governmental body. The request for proposals shall specify the method for comparing proposals to determine the proposal offering the lowest overall cost to the governmental body, taking into consideration comprehensiveness of services, energy or water cost savings, costs

to be paid by the governmental body and revenues to be paid to the governmental body. If the governmental body awards the contract to an offeror who did not submit the proposal offering the lowest overall cost, the governmental body shall explain the reason for the award in writing.

The evaluations shall specify revision, if needed, to each proposal which should be obtained by negotiation prior to awarding the contract to the offeror of the proposal. The governmental body may condition an award on successful negotiation of the revisions specified in the evaluation, and shall explain in writing the reasons for omitting any such revision from a plan incorporated by reference in the contract.

(d) The public agency may cancel a request for proposals, or may reject in whole or in part any and all proposals when the public agency determines that cancellation or rejection serves the best interests of the public agency. The public agency shall state in writing the reason for a cancellation or rejection.

The public agency shall promptly publish in the central register notice of the offeror awarded the contract.

The public agency shall, within 30 days, file a copy thereof with the undersecretary.

The undersecretary, in consultations with the commissioner of the division of capital asset management and maintenance, shall promulgate regulations for the procurement of energy management services under this section, provided however, that the commissioner of the division of capital asset management and maintenance shall promulgate regulations for services to be procured for state agencies and building authorities, and provided further, that regulations affecting the operations of housing authorities within the jurisdiction of the department of housing and community development shall be promulgated in consultation with the director of housing and community development. Such regulations may limit the scope of services procured and the duration of contracts, and shall include any requirements that the undersecretary or commissioner of the division of capital asset management and maintenance deems necessary to promote prudent management of such contracts at the appropriate facilities. Such regulations shall require the submission, at least annually, of such information as the undersecretary or commissioner of the division of capital asset management and maintenance may deem necessary in order to monitor the costs and benefits of contracts for energy management services.

(e) The undersecretary shall enforce the requirements of this section and regulations promulgated hereunder as they relate to public agencies except for state agencies and building authorities and shall have all the necessary powers to require compliance therewith. The commissioner of the division of capital asset management and maintenance shall enforce all such regulations as they relate to state agencies and building authorities. Any order of the undersecretary under this subsection shall be effective and may be enforced according to its terms, and enforcement thereof shall not be suspended or stayed by the entry of an appeal therefrom. The superior court for Suffolk County shall have jurisdiction over appeals of orders of the undersecretary under this subsection, and shall also have jurisdiction upon application of said undersecretary to enforce all orders of said undersecretary under this subsection. The burden of proof shall be upon the appealing party to show that the order of said undersecretary is invalid. An aggrieved person shall not be required to seek an order from said undersecretary as a condition precedent to seeking any other remedy.

Section 32. (a) As used in this section, the following words shall have the following meanings:--

"Eligible", able to meet all requirements for offerors or bidders set forth in this section including, without limitation, being certified by the division of capital asset management and maintenance as eligible to provide energy management systems services and not debarred from bidding under [section 44C of chapter 149](#) or any other applicable law.

"Energy conservation measures", measures involving modifications or maintenance and operating procedures of a building or facility and installations therein, which are designed to reduce energy consumption in such building or facility, or the installation or, modification of an installation in a building or facility which is primarily intended to reduce energy consumption.

"Energy conservation projects", projects to promote energy conservation, including but not limited to, energy conserving modification to windows and doors; caulking and weather-stripping; insulation, automatic energy control systems; hot water systems; equipment required to operate variable steam, hydraulic and ventilating systems; plant and distribution system modifications including replacement of burners, furnaces or boilers; devices for modifying fuel openings; electrical or mechanical furnace ignition systems; utility plant system conversions; replacement or modification of lighting fixtures; energy recovery systems; and cogeneration systems.

"Energy management services", a program of services, including energy audits, energy conservation measures, energy conservation projects, or a combination thereof, and building maintenance and financing services, primarily intended to reduce the cost of energy and water in operating 1 or more buildings, which may be paid for, in whole or in part, by cost savings attributable to a reduction in energy and water consumption which result from the services.

"Energy management systems", the design and installation of systems or maintenance programs to conserve energy use within a building, including, without limitation, performance-contracting energy saving projects; the installation or modification of new and existing equipment which will reduce energy and water consumption associated with heating, ventilation, and air conditioning system, lighting system, building envelope, domestic hot water system, and other energy and water using devices; and the work associated with monitoring and verifying project savings and the study or design of the subject work, whether performed directly or managed through subcontractors.

"Energy savings", a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of 1 or more energy management services when compared with an established baseline of previous fuel, energy, operating or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed pursuant to the guaranteed energy savings contract.

"Guaranteed energy savings contract", a contract for the evaluation, recommendation or implementation of 1 or more energy management services in which payments are based, in whole or in part, on any energy savings attributable to the contract.

"Person", any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

"Public agency", a city, town or district, including a regional school district, or a combination of 2 or more such cities, towns or districts, including regional school districts, or a department, agency, board, commission, authority or other instrumentality of the commonwealth.

"Qualified provider", responsible and eligible person able to meet all requirements set forth in this section, and not debarred from bidding under [section 44C of chapter 149](#) or any other applicable law and experienced in the design, implementation and installation of energy savings measures.

"Request for qualifications", a solicitation directed to qualified providers issued by a public agency to obtain energy management services pursuant to a guaranteed energy savings contract subject to the provisions of this section. The request for qualifications shall include the following: (i) the name and address of the public agency; (ii) the name, address, title and phone number of a contact person; (iii) The date, time and place where qualifications must be received; (iv) a description of the services to be procured, including a facility profile with a detailed description of each building involved and accurate energy consumption data for the most recent 2 year period, stated objectives for the program, a list of building improvements to be considered or required and a statement as to whether the proposed improvements will generate sufficient energy savings to fund the full cost of the program; (v) The evaluation criteria for assessing the qualifications; (vi) a statement that the public agency may cancel the request for qualifications or may reject in whole or in part any and all energy savings measures when the public agency determines that cancellation or rejection serves the best interests of the public; (vii) any other stipulations and clarifications the public agency may require, which shall be clearly identified in the request for qualifications.

"Responsible", demonstrably possessing the skill, ability and integrity necessary to faithfully perform the work called for by a particular contract, based upon a determination of competent workmanship and financial soundness in accordance with the provisions of [section 44D of chapter 149](#).

(b) A public agency may choose to use this section in the procurement of energy management services as an alternative to the procedures set out in section 11C. Nothing in this section shall preclude any such agency from choosing to proceed thereafter under said section 11C. A public agency may enter into a guaranteed energy savings contract in order to achieve energy savings at facilities in accordance with this section. All energy savings measures shall comply with current local, state and federal construction, and environmental codes and regulations. Prior to entering into a guaranteed energy savings contract, a public agency shall issue a request for qualifications. Public notice of the request for qualifications shall conform to the procedures set forth in subsection (1) of section 44J of chapter 149. At least 1 week before soliciting a request for qualifications for a guaranteed energy savings contract, a public agency shall notify the commissioner of energy resources in writing, in a form and including information as the commissioner of the division of capital asset management and maintenance shall prescribe by regulation, of the agency's intent to solicit qualifications. The notification, at a minimum, shall include a copy of the agency's request for qualifications. An acknowledgment of receipt, in a form and including information as the commissioner of the division of capital asset management and maintenance shall prescribe by regulation, shall

be issued by the commissioner of energy resources to the public agency upon successful compliance with the requirements of this subsection. Qualifications shall be opened publicly, in the presence of 2 or more witnesses, at the time specified in the request for qualifications, and shall be available for public inspection. The provisions of sections [44A](#), [44B](#) and [44E](#) to [44H](#), inclusive, of chapter 149 shall not apply to contracts procured pursuant to this section. Section [44D of said chapter 149](#) shall apply as appropriate to qualifications submitted for contracts under this section, and every such qualification shall be accompanied by (1) a copy of a certificate of eligibility issued by the commissioner of the division of capital asset management, and (2) by an update statement.

The public agency shall evaluate the qualified providers to determine which best meets the needs of the public agency by reviewing the following: (i) references of other energy savings contracts performed by the qualified providers; (ii) the certificate of eligibility and update statement provided by the qualified providers; (iii) the quality of the products proposed; (iv) the methodology of determining energy savings; (v) the general reputation and performance capabilities of the qualified providers; (vi) substantial conformity with the specifications and other conditions set forth in the request for qualifications; (vii) the time specified in the qualifications for the performance of the contract; and (viii) any other factors the public agency considers reasonable and appropriate, which factors shall be made a matter of record.

Respondents shall be evaluated only on the criteria set forth in the request for qualifications.

The public agency shall conduct discussions with, and may require public presentations by, each person who submitted qualifications in response to the request for qualifications regarding their qualifications, approach to the project and ability to furnish the required services. The public agency shall select in order of preference 3 such persons, unless fewer persons respond, they consider to be the most highly qualified to perform the required services. The agency may request, accept and consider proposals for the compensation to be paid under the contract only during competitive negotiations conducted pursuant to subsection (f).

(c) The public agency may cancel a request for qualifications, or may reject in whole or in part any and all proposals when the public agency determines that cancellation or rejection serves the best interests of the public agency. The public agency shall state in writing the reason for a cancellation or rejection.

(d) The public agency shall negotiate a contract with the most qualified person at compensation which the public agency determines is fair, competitive and reasonable. Should the public agency be unable to negotiate a satisfactory contract with the person considered to be the most qualified at a price the public agency determines to be fair, competitive and reasonable, negotiations with that person shall be formally terminated. The public agency shall then undertake negotiations with the second most qualified person. Failing accord with the second most qualified person, the public agency shall terminate those negotiations and then undertake negotiations with the third most qualified person. Should the public agency be unable to negotiate a satisfactory contract with any of the selected persons, the public agency may select additional qualified providers who responded to the request for qualifications, in the order of their competence and qualification, and continue negotiations in accordance with this subsection until either an agreement is reached or the public agency cancels the request for qualifications.

(e) The decision of a public agency as defined by section 1, regarding the selection of a qualified provider shall be final and not subject to appeal except on the grounds of fraud or collusion.

(f) The public agency shall provide public notice of the meeting at which it proposes to award the guaranteed energy savings contract, of the name of the parties to the proposed contract, and of the purpose of the contract. The public notice shall be made at least 10 days before the meeting. The public agency shall promptly publish in the central register notice of the award and those public agencies other than state agencies and building authorities shall notify the commissioner of energy resources of such award and provide a copy of the guaranteed energy savings contract.

(g) The guaranteed energy savings contract shall include a written guarantee of the qualified provider that either the amount of energy savings guaranteed will be achieved or the qualified provider shall reimburse the public agency for the shortfall amount. Methods for measurement and verification of guaranteed savings shall conform to the most recent standards established by the Federal Energy Management Program of the United States Department of Energy. The undersecretary shall enforce the requirements of this section and regulations promulgated hereunder as they relate to public agencies except for state agencies and building authorities and shall have all the necessary powers to require compliance therewith. The commissioner of the division of capital asset management and maintenance shall enforce the regulations as they relate to state agencies and building authorities. Any order of the commissioner of energy resources under this subsection shall be effective and may be enforced according to its terms, and enforcement thereof shall not be suspended or stayed by the

entry of an appeal therefrom. The superior court for Suffolk County shall have jurisdiction over appeals of orders of the commissioner of energy resources under this subsection, and shall also have jurisdiction upon application of the commissioner to enforce all orders of the commissioner under this subsection. The burden of proof shall be upon the appealing party to show that the order of the commissioner is invalid. An aggrieved person shall not be required to seek an order from the commission as a condition precedent to seeking any other remedy. The value of guaranteed savings may represent either all, or part of annual payments at the discretion of the agency. The guaranteed energy savings contract term for providing a guarantee, measurement and verification, maintenance, service and installment or lease payments shall not exceed 20 years. The division of capital asset management and maintenance, in concurrence with the state inspector general, shall promulgate regulations for the procurement of energy management services, including establishing safeguards to be included in guaranteed energy savings contracts. The regulations shall require the submission, at least annually, of information as the commission of the division of capital asset management and maintenance and the state inspector general consider necessary in order to monitor the costs and benefits of contracts for energy management services.

(h) Payments under a contract for energy management services may be based in whole or in part on any cost savings attributable to a reduction in energy and water consumption due to the contractor's performance or revenues gained due to the contractor's services which are aimed at energy and water cost savings.

(i) Unless no other manner of description suffices, and the public agency so determines in writing, setting forth the basis for the determination, all requirements shall be written in a manner which describes the requirements to be met without having the effect of exclusively requiring a proprietary supply or service, or a procurement from a sole source.

(j) Before entering into a guaranteed energy savings contract, the public agency shall require the qualified provider to file with the public agency a payment or a performance bond relating to the installation of energy savings measures, in an amount equal to 100 per cent of the estimated contract value from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570.

(k) Guaranteed energy savings contracts may extend beyond the fiscal year in which they become effective.

Section 33. Motor vehicles owned and operated by the commonwealth, as they are removed from service, shall only be replaced with vehicles that have above-average fuel efficiency for new vehicles within their size class as determined by the federal government. The provisions of this section shall not apply in cases where the purchase of an above-average fuel efficiency vehicle within their size class as determined by the federal government would result in an inability of the new vehicle to perform its intended duties.

Department of Broadband, Cable Television and Telecommunications

Section 34. As used in section 34 through 58, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Area or areas to be served”, may include a municipality or a portion of a municipality in order to reflect, within municipal boundaries, the various economic, cultural, geographic and community interests of the citizens residing therein.

“Commission”, the public utility commission established pursuant to section 61.

“Community antenna television system” or “CATV system”, a facility as defined by 47 USC section 522 (7).

“CATV operator” or “Operator”, a person operating a CATV system.

“Department”, the department of broadband, cable television and telecommunications.

“Director”, the director of the division of community antenna television.

“Division”, the division of community antenna television.

“Issuing authority”, the city manager of a city have a plan D or E charter, the mayor of any other city, or the board of selectmen of a town.

“Licensee”, a person who is issued a license pursuant to section 39.

“Undersecretary”, the undersecretary of the department of broadband, cable television and telecommunications.

Section 35. (a) There shall be within the executive office a department of broadband, cable television and telecommunications, which shall perform such functions as the secretary may determine in relation to the administration, implementation, and enforcement of the executive office's authority over the broadband, cable television and telecommunications industries in the commonwealth. The department shall be under the supervision and control of the undersecretary for broadband, cable television and telecommunications established pursuant to section 2. The undersecretary shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the provisions of law relative to the department and to each administrative unit thereof. The duties given to the undersecretary in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary.

Section 36. The department shall perform such functions as the secretary may determine in relation to the administration, implementation and enforcement of the department's authority over the broadband, cable television, telecommunications, and wireless communication industries, including, but not limited to, the authority granted by chapters 30A, 159, and 166. The department shall, in consultation with the wireless broadband development council established pursuant to section 6B of chapter 40J, develop a state telecommunications plan to ensuring quality wireless internet, cellular and broadband access for every community within the commonwealth. The duties and powers of the department and its administrative units shall include, but not be limited to, the following: (1) identifying communities that lack affordable and competitive wireless internet, cellular and broadband service; (2) identifying areas where, due to geographic remoteness, sparsity of population or other considerations, private-sector capital investment in wireless internet, cellular and broadband facilities deployment is not sufficient to meet the present and future needs of the area, and in those areas (i) developing strategies, including but not limited to, public-sector partnerships, including aggregation of demand, as a means to increase the presence of affordable, state-of-the-art wireless internet, cellular and broadband access; and (ii) facilitating the development of private, joint public-private or public initiatives which afford open, competitive, content-neutral wireless internet, cellular and broadband services accessible via multiple carriers; (3) examining and identifying the best practices of other states, municipalities and foreign governments relative to achieving wireless internet, cellular and broadband connectivity in underserved areas, including, but not limited to, the creation of public entities to facilitate the introduction of wireless internet, cellular and broadband services to underserved areas; (4) identifying state-of-the-art technologies that are well-suited to bring wireless internet, cellular and broadband service into underserved communities; (5) conducting a survey and analysis of all state owned lands to identify specific state lands that,

if made available for the purpose, would facilitate the deployment of wireless internet, cellular and broadband technologies and services to achieve service in underserved areas; (6) working in conjunction with the executive office of transportation and construction, the division of capital asset management and maintenance and other appropriate state, regional and municipal agencies, develop a plan to ensure that each state construction project, including but not limited to, buildings, roads and bridges shall include access for wireless internet, cellular and broadband infrastructure or enable future deployment of wireless internet, cellular and broadband infrastructure, including appropriate design for placement of wires, wireless arrays and poles and pole attachments; (7) investigating the development of wireless internet, cellular and broadband systems for downtown areas, commencing with areas of high growth, and working in consultation with the wireless broadband development council, established pursuant to section 6B of chapter 40J of the General Laws, to develop demonstration projects to facilitate wireless access in underserved small-to-mid sized communities; (8) investigating ways to financially support increased wireless internet, cellular and broadband connectivity, including a state universal service fund for the purpose; (9) examining the feasibility of establishing a universal statewide right of way fee to reduce the time from permit application to local approval, in order to promote wireless internet, cellular and broadband facilities deployment; (10) identifying any state law or regulation that hampers the expansion of wireless internet, cellular and broadband services or provides unreasonable competitive advantages to regulated, telecommunications carriers or cable operators, including access to, or use of, municipal or other facilities or rights-of-way; (11) working with appropriate state agencies and private parties to identify the locations of dark fiber and telecommunications tower access areas owned by telecommunications companies in the commonwealth; (12) identifying federal regulations and statutes that impede the deployment of wireless internet, cellular and broadband facilities and services and advocating before the United States Congress and the Federal Communications Commission for appropriate amendment of these federal policies; and (13) taking other actions considered necessary to fulfill the goal of establishing a competitive wireless internet, cellular and broadband market within the commonwealth.

Section 37. There shall be established in the department a division of community antennae television. The undersecretary, subject to the approval of the secretary, shall appoint a director of said division who shall have the full scope of authority of all the provisions of this chapter, including, but not limited to, presiding at hearings pursuant to section 38; the right to maintain or intervene in an action pursuant to section 48; the authority to hear appeals and issue enforcement orders pursuant to section 50; the authority to regulate rates pursuant to section 51; the authority to promulgate rules and regulations

pursuant to section 52; its enforcement powers pursuant to section 53; and all other authority to carry out the duties and responsibilities of this chapter. Appeals of any decision, order or ruling of the director may be brought within 14 days of the issuance of said decision to the commission. When so requested by any party interested, the department shall rule upon any question of substantive law properly arising in the course of any proceeding before the division within 14 days. Except as otherwise provided in this chapter, appeals taken from the orders of the department shall be governed by section 64.

The department shall annually, no later than December 31, report to the secretary, the undersecretary, and the joint committee on telecommunications, utilities and energy concerning the appeals that came before the division for that particular calendar year. The report shall detail the nature of each appeal and its outcome. The report shall be made available to the public by the department.

Section 38. The director shall preside at all hearings except as hereinafter provided. The office of the rate payer advocate established pursuant to section 6 shall have the authority to represent the people of the commonwealth in all such hearings and shall be deemed an aggrieved party for the purposes of judicial or administrative review of any decision or ruling in such proceedings. Matters other than those of formal or administrative character may be heard, examined and investigated by an employee of the division designated and assigned thereto by the director. Such employee shall make a report in writing on every such matter to the director for the director's decision thereon. For the purposes of hearing, examining and investigating any such matter such employee shall have all of the powers conferred upon a director by section 7, and all pertinent provisions of said section shall apply to such proceedings.

Section 39. No person shall construct, commence construction, or operate a CATV system in any city or town by means of wires and cables of its own or of any other person, without first obtaining as herein provided a written license from each city or town in which such wires or cables are installed or are to be installed, a copy of which shall be forwarded to the division. Such license must be non-exclusive. Each such license shall contain the following provisions:—

- (a) The area or areas to be served;
- (b) The completion date of the installation of all equipment, wires and cables necessary to serve the named area or areas;
- (c) The date service shall be available to the named area or areas;

(d) The term of the license, which shall not be more than 15 years; and

(e) Such other terms and conditions as have been authorized by the division.

Section 40. No such license or renewal thereof shall be issued except upon written application to the appropriate issuing authority on an application form prescribed by the division. Such form shall contain such information as the division may prescribe as to the citizenship and character of the applicant, and the financial, technical and other qualifications of the applicant to operate the system; complete information as to its principals and ultimate beneficial owners, including, in the case of corporations, all stockholders, both nominal and beneficial, owning 1 per cent or more of the issued and outstanding stock, and, in the case of unincorporated associations, all members and ultimate beneficial owners, however designated; complete information on the extent and quality of service, number of channels, hours of operation, variety of programs, local coverage, safety measures, installation and subscription fees; and such other information as the division may deem appropriate or necessary. Such application shall be signed by the applicant or by a duly authorized representative, evidence of whose authority shall be submitted with the application. Each applicant shall make full disclosure of the true ownership of the applicant and of the equipment to be employed in rendering service and of the source of funds for the purchase, lease, rental and installation of such equipment. Each applicant shall set forth as completely as possible the equipment to be employed, the routes of the wires and cables, the area or areas to be served, the approximate starting and completion dates of construction of the system and the date service will actually be available to the areas named. Additional areas to be served may be added by amendment to the license from time to time pursuant to regulations promulgated by the division.

Section 41. In the event a license is issued, each licensee shall agree to the following:

(a) in installing, operating, and maintaining equipment, cable and wires, it shall avoid all unnecessary damage and injury to trees, structures and improvements in and along the routes authorized by the issuing authority;

(b) it shall indemnify and hold the city or town harmless at all times during the term of the license from any and all claims for injury and damage to persons or property, both real and personal, caused by the installation, operation or maintenance of any structure, equipment, wire or cable authorized to be installed pursuant to the license. Upon receipt of notice in writing from the issuing

authority it shall at its own expense defend any action or proceeding against the city or town in which it is claimed that personal injury or property damage was caused by activities of the licensee in the installation, operation or maintenance of its system;

(c) it shall carry insurance in companies satisfactory to the issuing authority indemnifying the city or town and itself from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, operation, or maintenance of any structure, equipment, wires or cables authorized or used pursuant to the license. The amount of such insurance against liability for damage to property shall not be less than \$200,000 as to any one accident. The amount of such insurance for liability for injury or death to persons shall not be less than \$100,000 on account of injury to, or death of, any one person and \$300,000 on account of injury to, or death of, any number of persons in any one accident;

(d) it shall not engage directly or indirectly in the business of selling or repairing television or radio sets;

(e) it shall provide a cable drop and an outlet along its cable routes at no cost to public schools, police and fire stations, public libraries, and other public buildings designated in writing by the issuing authority;

(f) upon termination of the period of the license or of any renewal thereof by passage of time or otherwise, it shall remove its supporting structures, poles, transmission and distribution systems and other appurtenances from the streets, ways, lanes, alleys, parkways, bridges, highways and other public places in, over, under or along which they are installed and shall restore the areas to their original condition. If such removal is not completed within 6 months of such termination, the issuing authority may deem any property not removed as having been abandoned;

(g) whenever it takes up or disturbs any pavement, sidewalk or other improvement of any public way or public place, the same shall be replaced and the surface restored in as good condition as before entry as soon as practicable. If the licensee fails to make such restoration within a reasonable time, the issuing authority may fix a reasonable time for such restoration and repairs and shall notify the licensee in writing of the restoration and repairs required and the time fixed for performance thereof. Upon failure of the licensee to comply within the time specified, the issuing authority may cause proper restoration and repairs to be made and the expense of such work shall be paid by the licensee upon demand by the issuing authority;

(h) it shall not remove any television antenna of any subscriber but shall, at cost, offer to him and maintain an adequate switching device to allow the subscriber to choose between cable and non-cable reception;

(i) whenever it transposes any television signal from the channel on which it was originally broadcast so that it is received on a different channel on the receiving sets of subscribers, it shall at least 1 month prior to such transposition notify its subscribers in writing of such transposition and provide them with a marker suitable for mounting on television receivers indicating the fact of such transposition;

(j) if it permits any person who is a legally qualified candidate for any public office to employ the facilities of its system or originate and disseminate political campaign material, it shall afford equal opportunities to all other such candidates for the same office to use such facilities to originate and disseminate any views concerning a controversial issue of public importance, and shall afford reasonable opportunity for the presentation over its facilities of contrary points of view. The division shall be guided by, and its decisions shall be consistent with, those of the Federal Communications Commission under similar provisions of the Communications Act of 1934, as amended, and of policies established by the Federal Communications Commission;

(k) before commencing construction it shall submit to the issuing authority a bond, with corporate surety satisfactory to such authority. The conditions and terms of said bond shall be:

(1) the satisfactory completion of installation and operation of the system in accordance with the provisions of subsections (a), (m) and (n);

(2) the indemnity of the city or town in accordance with the provisions of subsection (b);

(3) the satisfactory removal of its system in accordance with the provisions of subsection (f);

(4) the satisfactory restoration of pavements, sidewalks, and other improvements in accordance with the provisions of subsection (g).

(l) in the event its service to any subscriber is interrupted for 24 or more consecutive hours, it will grant such subscriber a pro rata credit or rebate;

(m) the area or areas to be served as set out in the license according to subsection (a) of section 37 shall annually be wired and provided service in not less than 10 per cent of the area or areas specified until said service is complete and available in said area or areas in compliance with the provisions of subsection (n);

(n) the completion of construction within 6 years after the license is granted under the provisions of this chapter; and

(o) the maintenance of local offices or local telephone connections in the communities served.

Section 42. No license issued under section 39 shall be granted until the issuing authority has held a public hearing thereon, first causing notice of the time and place of such hearing and of the subject matter sufficient for identification, to be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication being not less than 14 days before the day of such hearing, or if there is no such newspaper in such city or town then by posting such notice in a conspicuous place in the city or town hall for a period of not less than 14 days before the day of such hearing. In the event more than 1 application is filed in any city or town, the issuing authority shall choose that applicant or those applicants which in its opinion will best serve the public interest. The issuing authority shall issue a public statement in writing containing the reasons for its acceptance or rejection of any or all applications.

Section 43. No license or control thereof shall be transferred or assigned without the prior written consent of the issuing authority, which consent shall not be arbitrarily or unreasonably withheld. Such consent shall be given only after a hearing upon a written application therefor on forms to be prescribed by the division. The application for consent to a transfer or assignment shall be signed by the licensee and by the proposed transferee or assignee or by their representatives, evidence of whose authority shall be submitted with the application. The consent of an issuing authority to a transfer or assignment of a license for an unconstructed CATV system shall not be given if the consideration being paid in the proposed transaction includes a substantial payment for the license.

Section 44. Each licensee shall install its CATV system and maintain the quality of the signals transmitted over its system to its subscribers in accordance with standards to be prescribed by the Federal Communications Commission and the division. Each licensee shall file annually with the division on forms prescribed

by the division, a statement of its revenues and expenses for official use only. In addition, each such licensee shall file with the division and the issuing authority on forms prescribed by the division, a financial balance sheet and statement of ownership which shall be open to public inspection. Such statements and balance sheet shall be sworn to by the person preparing such forms and by the owner, or if the owner is a corporation, by the treasurer of the corporation.

Section 45. No application for a license to operate a CATV system or for renewal, transfer or assignment of such a license shall be considered by an issuing authority unless it is accompanied by an application fee of \$100 payable to the city or town. A licensee, serving more than 250 subscribers shall, annually on or before March 15, pay to the commonwealth a license fee equal to \$1.10 per subscriber served and to the issuing authority a license fee equal to \$.85 per subscriber served. In determining a license fee, the number of subscribers served shall be measured as of December 31 of the preceding calendar year.

Section 46. Complaints by any person as to the operation of any CATV system may be filed in writing with the division or with the issuing authority, each of which shall, within 10 days, forward copies of such complaints to the other. The issuing authority and the division shall be notified by the licensee on forms to be prescribed by the division, not less than annually, of the complaints of subscribers received during the reporting period and the manner in which they have been met, including the time required to make any necessary repairs or adjustments.

Section 47. Any license issued hereunder may, after hearing, be revoked by the issuing authority or the division for any of the following reasons:—

(a) for false or misleading statements in, or material omissions from, any application submitted under section 40, 41 or any annual return under section 44;

(b) for failure to file and maintain a bond as required under subsection (k) of section 41 or to maintain insurance as required under subsection (c) of said section;

(c) for repeated violations, as determined by the division, of commitments of a licensee set forth in subsection (j) of section 41;

(d) for failure to complete construction in accordance with the provisions of subsection (n) of section 41;

(e) for any transfer or assignment of a license or control thereof without consent in violation of section 43;

(f) for repeated failure, as determined by the division, to maintain signal quality under the standards provided for in section 52;

(g) for repeated violations of other obligations of the licensee set forth in section 41, except subsection (j), or of the terms of its license.

Section 48. The department shall have the right to institute, or to intervene as a party in, any action in any court of competent jurisdiction seeking mandamus, injunctive or other relief to compel compliance with any provision of this chapter or any rule, regulation or order adopted thereunder, or to restrain or otherwise prevent or prohibit any illegal or unauthorized conduct in connection therewith.

Section 49. Any license issued hereunder may be renewed after hearing by the issuing authority for additional periods each not to exceed 10 years. An application for renewal shall be on forms to be prescribed by the division. Such forms shall set forth such facts as the division may prescribe as to the citizenship and character of the applicant for renewal, and its financial, technical, and other qualifications to operate the system, and complete information as to its principals and ultimate beneficial owners, including in the case of corporations, all stockholders both nominal and beneficial owning 1 per cent or more of the issued and outstanding stock, and in the case of unincorporated associations, all members and ultimate beneficial owners however designated, in order that the applicant for renewal shall make full disclosure as to its true ownership and as to the source of funds to be used for operation of the system.

Section 50. Any applicant for a license or renewal of a license who is aggrieved by a denial of its application by the issuing authority or by its failure to act within the period of 60 days, or any licensee who is aggrieved by the action of an issuing authority in modifying, suspending, cancelling, revoking, declaring a license forfeited, denying consent to the transfer or assignment of a license or control thereof, or by the issuing authority's failure to act within the period of 60 days may appeal therefrom to the division within 30 days following notice of such action or within 30 days following the expiration of a 60 day period of inaction, by a petition in writing, setting forth all material facts in the case.

The division shall hold a hearing upon each such appeal, requiring due notice to be given to all interested parties.

If the division approves the action of the issuing authority it shall issue notice to them to that effect, but if the division disapproves of their action it shall issue a decision in writing advising said issuing authority of the reasons for its decision and ordering the issuing authority to conform with such decision. The division shall not, in any event, order a license to be issued until the application for said license has been granted by the issuing authority.

Upon the petition of 10 per cent of the subscribers who are taxpayers of the city or town in which a license has been granted by such authority or who are registered voters in the voting precinct or district in the area or areas to be served as set out in the license, or the office of the ratepayer advocate, or upon its own initiative, the division may investigate the granting, renewal, transfer or assignment of such a license or the conduct of the business being done thereunder, and may, after a hearing, modify, suspend, revoke or cancel such license for cause.

If the issuing authority fails to suspend, revoke, cancel or declare forfeited a license or to perform any other disciplinary act when lawfully ordered so to do by the division upon appeal or otherwise, within such reasonable time as it may prescribe, the division may itself revoke such license or perform such act, with the same force and effect as if issued or performed by the issuing authority, but no license shall be issued by the division except in ratification of a prior issuance to the same party by the issuing authority.

Section 51. The division shall study the necessity and desirability of rate regulation, and thereafter it may, upon its own motion or upon request of any issuing authority or licensee, after due hearing and investigation, fix and establish, for each community antenna television system in the commonwealth, a fair and reasonable rate of return from subscription rates charged to subscribers, said rates to be adequate, just, reasonable and non-discriminatory. Notwithstanding any other provision of this paragraph, the division may, after due hearing and investigation, suspend regulation of rates and charges in any cable television system upon a finding that adequate competitive alternatives exist to the provision of services offered by cable television systems. In the event of such a suspension, the division shall, by oversight and surveillance, review periodically any facts or standards employed in determining the presence of said competition.

The division shall cause notice of the time and place of every such hearing to be published in at least one newspaper of general circulation in the municipality or service area affected. Such notice and schedule shall be in such form as the division may deem expedient.

The division may make, and, at any time, alter or amend, reasonable rules and regulations to facilitate the operation of this section and enforce the application of the rates fixed and established by them, may conduct hearings and investigations under this section, and may at any time require any company to file with them such data, statistics, schedules, or information as they may deem proper or necessary to enable them to fix and establish or secure and maintain fair and reasonable rates. They may issue such orders as they find proper, expedient or necessary to enforce and administer the provisions of this section, to secure compliance with any rules or regulations made thereunder, and to enforce adherence to the rates fixed and established by them. The superior court for the county of Suffolk shall have jurisdiction in equity upon the petition of the division and after a summary hearing, to enforce all lawful orders of the division. Memoranda of all actions, orders, findings, and decisions of the division shall be signed by them and filed in their office as public records open to public inspection.

Any person aggrieved by any action, order, finding, or decision of the division under this section may, within 45 days from the filing of such memorandum thereof with the division, file a petition in the superior court for the county of Suffolk for a review of such action, order, finding or decision. An order of notice returnable not later than 7 days from the filing of such petition shall forthwith issue and be served upon the division. Within 10 days after the return of said order of notice, the petition shall be assigned for a speedy and summary hearing on the merits. The action, order, finding, or decision of the division shall remain in full force and effect pending the final decision of the court unless the court or a justice thereof, after notice to the division, shall otherwise order. The court shall have jurisdiction in equity to modify, amend, annul, reverse or affirm such action, order, finding or decision, shall review all questions of fact and of law involved therein and may make any appropriate order or decree. The decision of the court shall be final and conclusive on the parties. The court may make such order as to costs as it deems equitable. The court shall make such rules or orders as it deems proper to secure prompt and speedy hearings and to expedite final decisions thereon.

Section 52. The division may after hearing issue such standards and regulations as it deems appropriate to carry out the purpose of this chapter for which purpose it may employ such expert assistants as it deems necessary. The division shall have the authority to mediate between cities and towns and, after appropriate notice and hearing, to make a final decision, in the event of conflict in the exercise of jurisdiction to authorize or regulate CATV systems. The division shall also represent the interests of the citizens of the commonwealth before the Federal Communications Commission and shall certify the

performance of the CATV operators under its jurisdiction to appropriate federal, state and local authorities.

Except as set forth in section 39, nothing in this chapter shall prohibit a city or town from prohibiting the distribution on basic service of material, which is obscene as defined in section 31 of chapter 272, by the licensee to subscribers of said city or town.

Section 53. The division or its employees may visit the places of business and other premises and examine the records and facilities of all CATV companies to ascertain if all rules and regulations and orders of the division have been complied with, and any cases of non-compliance shall be reported by it to the issuing authority. The division shall also have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before it in any matter over which it has jurisdiction, control or supervision. The division shall have the power to administer oaths and affirmations to persons whose testimony is required.

Section 54. Any person or the officer, agent or employee of any organization who willfully violates any provision of this chapter or of any rule, regulation, or order adopted thereunder, or who willfully procures, aids, or abets any violation of such a provision shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in a jail or house of correction for not more than 6 months, or by both such fine and imprisonment.

Section 55. The hearing provided for in sections 47, 50, 51 and 52 shall be subject to the provisions of chapter 30A. No other hearing provided for or required by any section of this chapter shall be subject to chapter 30A but all such hearings shall be public.

Section 56. Any city or town may construct, purchase and operate a CATV system, but such operation shall be subject to this chapter as if the system were privately owned and operated.

Section 57. No operator shall enter into any agreement with persons owning, leasing, controlling or managing buildings served by a CATV system, or perform any act, that would directly or indirectly diminish or interfere with existing rights of any tenant or other occupant of such a building to the use of master or individual antenna equipment.

An operator who affixes, or causes to be affixed, CATV system facilities to the dwelling of a tenant shall do so at no cost to the landlord of such dwelling, shall indemnify the landlord of such dwelling for any damage arising out of such actions, and shall not interfere with the safety, functioning, appearance or use of such dwelling.

The consent required by section 35 of chapter 166 shall be deemed to have been granted to an operator upon his delivery to the owner or lawful agent of the owner of property upon which he proposes to affix CATV system facilities of a copy of this section and a signed statement that he agrees to be bound by the terms of this section.

An owner of property, or his lawful agent, may sue in contract to enforce the provisions of an operator's agreement under this section.

No person owning, leasing, controlling or managing a multiple dwelling unit or units or a manufactured housing community, as defined in section 32F of chapter 140 served by a CATV system shall discriminate in rental or other charges between tenants or manufactured home owners or occupants who subscribe to such CATV services, and those who do not; provided, however, that the owner of such real estate may require reasonable compensation in exchange for permitting the installation of CATV system equipment within and upon such real estate, to be paid by an operator, and any such taking and compensation shall be determined in accordance with the provisions of chapter 79.

No person owning, leasing, controlling or managing a multiple dwelling unit or units, or a manufactured housing community, as defined in section 32F of chapter 140, shall prohibit or otherwise prevent an operator from entering such buildings or manufactured homes for the purpose of constructing, installing or servicing CATV system facilities if 1 or more tenants or occupants of a multiple dwelling unit or units, or one or more owners or occupants of a manufactured home or homes, have requested such CATV services. A cable television operator shall not make an installation in an individual dwelling unit or manufactured home unless permission has been given by the tenant occupying such unit or the owner or occupant of such manufactured home.

An owner whose property is injuriously affected or diminished in value by occupation of the ground or air or otherwise by such construction of CATV system facilities may recover damages therefor from the operator pursuant to chapter 79. The right of an operator to construct, install or repair CATV system facilities and to maintain CATV services shall not be delayed or impaired by the

assertion of a specific claim, or the initiation of legal action to enforce such claim. The superior court shall have exclusive original jurisdiction of all actions seeking injunctive relief to permit the construction, installation or repair of CATV system facilities.

A cable television operator shall indemnify the landlord for any damage caused by the installation, operation or removal of cable television facilities. An owner of property may require that the installation of cable television facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises, and the convenience and well being of other tenants.

Section 58. The department shall annually, no later than December 31, submit a report, of the department's activity and the condition of the broadband, cable television, wireless and telecommunications industries within the commonwealth during the preceding fiscal year, including any recommendations for legislation, to the secretary, the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies and the chairs of the joint committee on telecommunications, utilities and energy.

Department of Utility Regulation and Oversight

Section 59. As used in sections 59 through 73 the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Chairman”, the chair of the public utility commission established pursuant to section 62.

“Commission”, the public utility commission established pursuant to section 62.

“Department”, the department of utility regulation and oversight.

“Undersecretary”, the undersecretary of the department of utility regulation and oversight.

Section 60. (a) There shall be within the executive office a department of utility regulation and oversight, which shall perform such functions as the secretary may determine in relation to the administration, implementation, and enforcement of the executive office's authority over public utilities in the commonwealth. The department shall be under the supervision and control of the undersecretary for utility regulation and oversight established pursuant to

section 2. The undersecretary shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the provisions of law relative to the department and to each administrative unit thereof. The duties given to the undersecretary in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary.

Section 61. The department shall perform such functions as the secretary may determine in relation to the administration, implementation, and enforcement of the department's authority over public utilities, including, but not limited to, the authority granted by chapters 30A, 164, 164A, 165 and 166.

Section 62. Within the department there shall be a public utility commission consisting of 5 members, 1 of whom shall be the undersecretary of energy affairs for utility regulation and oversight who shall serve as chair, 1 of whom shall be the undersecretary of energy affairs for alternative and renewable energy development; 1 of whom shall be the undersecretary of energy affairs for broadband, cable television and telecommunications; 1 of whom shall have a background and expertise in electricity and energy issues, including issues related to natural gas; and 1 of whom shall have a background and expertise in consumer protection and advocacy issues. Beginning July 1, 2007, the commissioners, except for the 3 undersecretaries of energy affairs, shall be appointed by the secretary with the approval of the governor for a term of 3 years. Each member shall hold office until the appointment and qualifications of his successor. The governor may remove any member for cause, including, but not limited to, any violation of the provisions of section 7, and shall fill any vacancy for the unexpired term. The commissioners shall devote their full time to the duties of their office. Not more than 3 members of said commission shall be members of the same political party. Except as otherwise provided for in section 63, any decision made or order issued by the commission may be made by majority vote of a quorum of 3 members.

The initial base salary of the members, exclusive of the chairman and the undersecretaries, shall be \$90,000. Said salaries shall be subject to step increases consistent with the provisions of sections 45 and 46C of chapter 30. The members shall receive necessary expenses incurred in the discharge of their official duties.

The commission shall make an annual report of its activities in January of each year to the general court. A copy of each official decision issued by the commission or its designee shall be appended to the annual report and shall also be available in an electronic format.

Section 63. The chairman shall have and exercise supervision and control over all the affairs of the commission. He shall preside at all hearings at which he is present, and shall designate a commissioner to act as chairman in his absence. In order to promote efficiency in administration he shall from time to time make such division or redivision of the work of the commission among the commissioners as he deems expedient and may refer matters related to the need for, construction of, or siting of facilities, as defined in section 69G of chapter 164, as he deems appropriate to the energy facilities siting board in accordance with section 69H of chapter 164. All of the commissioners shall, if so directed by the chairman, participate in the hearing and decision of any matter coming before the commission. In the hearing of all matters other than those of formal or administrative character coming before the commission, 2 or more commissioners shall participate and in the decision of all such matters all of the commissioners shall participate; provided, that any such matter may be heard, examined and investigated by an employee of the executive office designated and assigned thereto by the chairman with the concurrence of one other commissioner. Such employee shall make a report in writing relative to every such matter to the commission for its decision thereon. For the purposes of hearing, examining and investigating any such matter such employee shall have all of the powers conferred upon a commissioner by section 63, and all pertinent provisions of said section shall apply to such proceedings. In every such case the concurrence of a majority of the commissioners participating in the decision shall be necessary therefor.

Section 64. Upon request of a mayor of a city or the board of selectman of a town, a member of the general court or of 20 customers of the company affected, or the director, a public hearing ordered by the commission, to be held in connection with any change in rates or reduction in or discontinuance of service, shall be held in the city or town or area wherein the company affected does business or in which any decision of the commission would apply. The department shall, at least 14 days prior to holding any public hearing under this section, notify in writing the mayor of each city and the board of selectmen of each town in which the company does business of the time and place of such hearing.

Section 65. When so requested by any party interested, the commission shall rule upon any question of substantive law properly arising in the course of any proceeding before the commission or any member or members thereof, and any party interested aggrieved by such ruling may object thereto, and may secure a review as hereinafter provided. Any failure or refusal of the commission to rule upon such question at or prior to the entry of a final order or decision shall be taken and recorded as a ruling adverse to the party requesting

the ruling. An appeal as to matters of law from any final decision, order or ruling of the commission may be taken to the supreme judicial court by an aggrieved party in interest by the filing of a written petition praying that the order of the commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the secretary of the commission within 20 days after the date of service of the decision, order or ruling of the commission, or within such further time as the commission may allow upon request filed prior to the expiration of the 20 days after the date of service of said decision, order or ruling. The commission shall serve such decision, order or ruling upon all parties in interest by mailing, postpaid, within 1 day of its being entered, and service shall be presumed to have occurred in the normal course of delivery of such mail. Within 10 days after such petition has been filed, the appealing party shall enter the appeal in the supreme judicial court sitting in Suffolk county by filing a copy thereof with the clerk of said court, and shall file therewith a certificate that he is of the opinion that there is such probable ground for the appeal as to make it a fit subject for judicial inquiry and that it is not intended for delay; and double costs may be assessed by the court upon any such party whose petition shall appear to the court not to be a fit subject for judicial inquiry or shall appear to be intended for delay.

The record on appeal shall include 1 copy of the petition of the appellant or other original papers, and of the decision, order or ruling of the commission; and if and to the extent that either the commission or the appellant or any other party to the proceedings so requests within 20 days from filing the petition for appeal with the commission, it shall include 1 copy of the exhibits and documents introduced in the proceeding before the commission of the official report of the proceedings and of the findings of fact of the commission. The secretary of the commission shall make an estimate of the expense of the preparation and transmission of the necessary papers and copies of papers aforesaid, and shall give the appellant notice in writing of the amount of such estimate. The appellant, within 20 days after the date of such notice from the secretary, shall pay to him the amount of such estimate and such further amount beyond such estimate as the secretary shall find to be then due for such preparation. The secretary then without delay shall prepare the papers and copies of papers aforesaid for transmission, and when they are ready, shall give notice in writing of such fact to the appellant who, within 5 days after the date of such notice, shall pay to the secretary any balance then due therefor. The record on appeal shall then be certified to the supreme judicial court by the secretary of the commission. The commission or the supreme judicial court or any justice or judge thereof may for cause shown extend the time for doing any of the acts required by this paragraph. The supreme judicial court may order the transmission of the original or a copy of any paper not appearing in the record,

or appearing therein in an abbreviated form, if at any time such omitted paper or any omitted part of such abbreviated paper becomes material.

Each claim of appeal shall set forth separately and particularly each error of law asserted to have been made by the commission. Upon the entry of the appeal it shall be heard and determined by the court, which shall have jurisdiction to affirm, modify or set aside such decision, order or ruling of the commission in whole or in part, or remand the proceeding to the commission with instructions subject to review by the full court upon appeal.

Any decision, order or ruling of the commission shall be effective and may be enforced according to its terms and the operation or enforcement thereof shall not be suspended or stayed by the entry of an appeal therefrom. The procedure before the court, except as otherwise set forth herein, shall be that prescribed by its rules, which shall state upon what terms the operation or enforcement of the decision, order or ruling shall be stayed. Any stock, bonds, debentures, convertible debentures, coupon notes, notes or other evidences of indebtedness issued pursuant to and in accordance with a decision, order, or ruling of the commission shall, if issued more than 60 days after the date of service of such decision, order or ruling, be valid and binding in accordance with their terms notwithstanding such decision, order or ruling of the commission is later modified or set aside in whole or in part unless the operation or enforcement of such decision, order or ruling has been suspended or stayed by the court prior to such issuance.

The burden of proof shall be upon the appealing party to show that the decision, order or ruling of the commission appealed from is invalid.

No evidence beyond that contained in the record shall be introduced before the court, except that in cases where issues of confiscation or of constitutional right are involved the court may order such additional evidence as it deems necessary for the determination of such issues to be taken before the commission and to be adduced at the hearing in such manner and upon such terms and conditions as to the court may seem proper. Whenever the court shall order additional evidence to be taken, the commission shall promptly hear and report such evidence to the court so that the proof may be brought as nearly as reasonably possible down to the date of its report thereof to the court. The commission may, after hearing such evidence, modify its findings as to facts and its original decision or orders by reason of the additional evidence so taken, and it shall file with the court such amended decision or orders and such modified or new findings. If the commission shall modify or amend its original decision or orders, the appealing party or any other party aggrieved by such modified or

amended decision or order may file with the court, within such time as the court may allow, a specification of any errors of law claimed to have been made by the commission in such modified decision or orders, which specification of errors shall thereupon be considered by the court in addition to the errors of law asserted in the claim of appeal.

Any proceeding in any court in the commonwealth directly affecting an order of the commission, or to which it is a party, shall have preference over all other civil proceedings pending in such court, except election cases.

The supreme judicial court shall also have jurisdiction upon application of the commission to enforce all orders of the commission.

Section 66. In all investigations and inquiries authorized by law to be made by the commission and in all proceedings before it, any commissioner of the commission may summon witnesses, administer oaths and take testimony. The fees of such witnesses for attendance and travel shall be the same as for witnesses before the superior court and shall be paid by the commonwealth upon the certificate of the commission filed with the comptroller. The fees of such witnesses need not be paid or tendered to them prior to their attendance and testimony. Subpoenas may be issued at the instance of a complainant, respondent or any other party to any proceeding before the commission under such rules as the commission may establish, in which case the cost of service and the fees of witnesses shall be borne by the party at whose instance the witness is summoned, and such fees shall be paid to the witnesses as provided in the case of witnesses before the superior court.

Section 67. Except as otherwise permitted in this section, in any contested on-the-record proceeding, no person outside the executive office shall make or knowingly cause to be made to any decisional employee, and no decisional employee shall make or knowingly cause to be made to any person outside the executive office, any off-the-record communication. The communication prohibited by this section shall apply to: (i) proceedings initiated by the commission from the time an order initiating the proceeding is issued; (ii) proceedings returned to the commission on judicial remand from the date the court issues said mandate; (iii) complaints initiated by the filing of the complaint with the commission, or from the date the commission initiates an investigation other than an investigation exempted from the provisions of this section; (iv) matters that have been assigned to an administrative law judge or hearing officer for adjudication or other resolution; and (v) all other proceedings from the time of the filing of an intervention disputing any material issue that is the subject of a proceeding.

The prohibitions herein prescribed shall remain in force until: (i) a final commission decision or, other final order on the merits of the proceeding, is issued; or, when applicable, after the time for seeking rehearing or reconsideration of a final commission decision, or other final order disposing of the merits, expires; (ii) the commission otherwise terminates the proceeding; or (iii) the proceeding is no longer contested.

Except as provided in herein, the general prohibitions of this section shall not apply to: (i) an off-the-record communication permitted by law and authorized by the commission; (ii) an off-the-record communication related to any emergency concerning a company or facility regulated by the executive office or a company or facility that provides executive office-regulated services, involving injury or threat of injury to persons, property or the environment, subject to disclosure provisions of this section; (iii) an off-the-record communication provided for in a written agreement among all parties to a proceeding that has been approved by the commission; (iv) an off-the-record written communication from a non-party elected official, subject to disclosure under the provisions of this section; (v) an off-the-record communication to or from a Federal, state or local agency that is not a party in the commission proceeding, subject to disclosure under the provisions of this section, if the communication involves: (a) an oral or written response to a request for information made by the commission or commission staff; or (b) an off-the-record communication involving individual landowners who are not parties to the proceeding and whose property would be used or abuts property that would be used by the project that is the subject of the proceeding, subject to disclosure under the provisions of this section.

Except as herein provided, prohibited off-the-record communications will not be considered part of the record for decision in the applicable proceeding. Any decisional employee who makes or receives a prohibited off-the-record communication shall promptly submit to the chairman that communication, if written, or a summary of the substance of that communication, if oral. The chairman shall place the communication or the summary in the public file associated with, but not part of, the decisional record of the proceeding. Any party may file a response to a prohibited off-the-record communication placed in the public file. A party may also file a written request to have the prohibited off-the-record communication and the response included in the decisional record of the proceeding. The communication and the response will be made a part of the decisional record if such a request is granted by the commission. The chairman shall instruct any person making a prohibited written off-the-record communication to serve the document, pursuant to regulations promulgated pursuant to this chapter, on all parties listed on the commission's official service list for the applicable proceeding.

Any document, or a summary of the substance of any oral communication, obtained through an exempt off-the-record communication promptly shall be submitted to the chairman and placed in the decisional record of the relevant commission proceeding. Any person may respond to an exempted off-the-record communication. The chairman shall, not less than every 30 days, issue a public notice listing any prohibited off-the-record communications or summaries thereof received. For each prohibited off-the-record communication the chairman places in the non-decisional public file the notice will identify the maker of the off-the-record communication, the date the off-the-record communication was received, and the docket number to which it relates. The chairman shall, not less than every 30 days, issue a public notice listing any exempt off-the-record communications or summaries of the communication received by the chairman for inclusion in the decisional record and required to be disclosed under this section. The public notice required under this paragraph will be posted and disseminated in the publication manner authorized by the commission for its official proceedings.

If a party or its agent or representative knowingly makes, or causes to be made, a prohibited off-the-record communication, the commission may require the party, agent, or representative to show cause why the party's claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected because of the prohibited off-the-record communication. If a person knowingly makes or causes to be made a prohibited off-the-record communication, the commission may disqualify and deny the person, temporarily or permanently, the privilege of practicing or appearing before it. The commission may, by rule or order, modify any provision of this section as it applies to all or part of a proceeding, to the extent permitted by law. The provisions of this section are not intended to limit the authority of a decisional employee to decline to engage in permitted off-the-record communications, or where not required by any law, statute or regulation, to make a public disclosure of any exempted off-the-record communication.

The department shall issue regulations that implement the provisions of this section. Any regulations issued by the department shall incorporate all the provisions contained herein, provided, however, that said regulations may contain additional provisions that are stricter than the prohibitions of this section provided that such provisions are consistent with the intent of this section.

Section 68. The commission shall issue, following public hearings in accordance with chapter 30A, rules and regulations for the enforcement of section 33A of chapter 164.

Section 69. Notwithstanding the provisions of clause 26 of section 7 of chapter 4 and section 10 of chapter 69, the department may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for such protection. Where such a need has been found to exist, the executive office shall protect only so much of the information as is necessary to meet such need. The executive office shall promulgate procedural rules and regulations consistent with this section as it deems necessary to implement the provisions hereof.

Section 70. Except when a fee is required by another provision of law, and except in the case of a filing by the commonwealth or any of its political subdivisions, the department shall, in the following instances, charge and collect fees as determined annually by the commissioner of administration under the provision of section 3B of chapter 7:

1. For filing a tariff having intrastate application only, schedule or amendment thereto, or a contract filed under section 7 of chapter 159B, and for filing an application for a permit for special service, under section 11A of chapter 159A.

2. For filing each application by any public utility for approval of the issue of stocks, bonds, notes or other evidences of indebtedness according to the amount thereof, as follows:

\$100	-	\$1,000
1,001-	2,500	
2,501-	5,000	
5,001-	10,000	
10,001-	40,000	
40,001-	50,000	
50,001-	75,000	
75,001-	150,000	
150,001-	300,000	
300,001-	400,000	
400,000-	500,000	
	500,001-	1,000,000

For each additional \$10,000 or fraction thereof

3. For any other approval or authority of the executive office.

The undersecretary shall designate one employee to receive all fees collected under this section who shall give bond to the state treasurer in the sum of \$10,000.00.

Section 71. The department or its employees may visit the places of business and other premises and examine the records and facilities of all utility companies to ascertain if all rules and regulations and orders of the department or the commission have been complied with. The department shall also have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before it in any matter over which it has jurisdiction, control or supervision. The department shall have the power to administer oaths and affirmations to persons whose testimony is required.

Section 72. For the performance of the department's duties relative to water, gas and electric companies the undersecretary may expend annually for necessary statistics, books, stationery and contingent expenses, and for clerical and other assistance, such sums as the general court shall annually appropriate, and may appoint or employ, subject to the approval of the governor and council, such expert assistance as it may deem advisable, on such terms of office or employment as it may deem proper, and may expend therefor and for the performance of the duties imposed upon it by law such sums as the general court shall annually appropriate.

Section 73. The undersecretary may assign to all officers and employees appointed or employed under the preceding section such duties as it shall from time to time deem advisable, but all acts of such officers and employees shall be done under the supervision and control of, and subject to revision by, the undersecretary.

SECTION 13. Chapter 7 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after section 39C the following section:-

Section 39D. (a) The commissioner of the division of capital asset management and maintenance, shall require any state agency that initiates, after the effective date of this act, the construction of a new facility, or substantial renovation of an existing facility that includes the replacement of systems, components, and other building elements which affect energy or water consumption, and which is either owned or operated by the commonwealth, to

design and construct such facility to minimize the life-cycle cost of the facility by utilizing energy efficiency, water conservation, or other renewable energy technologies pursuant to the following criteria:

(i) State agencies shall conduct a life-cycle cost analysis of any such facility's proposed design that evaluates the short-term and long-term cost and technical feasibility of using a passive or active solar energy system, wind-powered energy system or other renewable energy system to provide lighting, heat, water heating, or electricity. State agencies shall utilize solar or wind-powered systems when the life-cycle cost analysis has determined that such systems are economically feasible;

(ii) Each new educational facility, including any municipal educational facility financed through the school building assistance bureau, for which the projected demand for hot water exceeds 1,000 gallons per day, or which operates a heated swimming pool, shall be constructed, whenever economically and physically feasible, with a solar or other renewable energy system as the primary energy source for the domestic hot water system or swimming pool of the facility;

(iii) Each such state agency shall attempt, in the design, construction, equipping and operation of such facilities, to coordinate these efforts with the department of alternative and renewable energy in order to maximize reliance and benefits of renewable energy research and investment activities promoted by this act; and

(iv) Each such state agency shall file with said department a report detailing its compliance with the provisions of this section with respect to each such facility.

(b) Notwithstanding the provisions of section 28 of chapter 6C of the General Laws, the division of capital asset management and maintenance may procure energy management services jointly with a state agency or building authority that is procuring energy or related services. The provisions of said section 28 shall apply to the extent determined feasible by the undersecretary of alternative and renewable energy development.

(c) For purposes of this section, the term "economically-feasible" shall mean providing a payback period of not more than 10 years, as determined by a life-cycle cost analysis. The division of capital asset management and maintenance shall establish, not later than January 1, 2008, a methodology for use by agencies in assessing life-cycle costs. The department of alternative and

renewable energy shall issue an annual report to the general court detailing the compliance record of all state agencies with the construction and renovation provisions in this section.

SECTION 14. Section 43F of said chapter 7 of the General Laws, as so appearing, is hereby amended by striking out, in lines 12 and 13, the words "commissioner of Energy Resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 15. Section 43F½ of said chapter 7, as so appearing, is hereby amended by striking out, in line 22, the words "commissioner of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 16. Chapter 10 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after section 35BB the following sections:-

Section 35CC. There shall be established upon the books of the commonwealth a separate fund to be known as the Executive Office of Energy Affairs Trust Fund. There shall be credited to said fund all amounts collected pursuant to section 10(b) of chapter 6C of the General Laws and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and shall be available for expenditure, without further appropriation, by the secretary of the executive office of energy affairs for activities of said executive office related to the regulation of electric companies. Any unexpended balance in the fund at the close of a fiscal year shall remain in the fund and shall be available for expenditure in the following fiscal year.

SECTION 17. Section 11E of chapter 12 of the General Laws, as appearing in the 2004 Official Edition, is hereby repealed.

SECTION 18. Section 18A of chapter 21A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 50, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 19. Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking out, in line 69, the words

“telecommunications and energy” and inserting in place thereof the following words:- utility regulation and oversight

SECTION 20. Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 71 and 72, the words “telecommunications and energy” and inserting in place thereof the following words:- utility regulation and oversight

SECTION 21. Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 76 and 77, the words “telecommunications and energy” and inserting in place thereof the following words:- utility regulation and oversight

SECTION 22. Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 78 and 79, the words “telecommunications and energy” and inserting in place thereof the following words:- utility regulation and oversight

SECTION 23. Section 7 of chapter 21C of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 57, the words “telecommunications and energy” and inserting in place thereof the following words:- transportation oversight

SECTION 24. Said section 7 of said chapter 21C, as so appearing, is hereby further amended by striking out, in lines 67 and 68, the words “telecommunications and energy” and inserting in place thereof the following words:- transportation oversight

SECTION 25. Section 8 of said chapter 21C, as so appearing, is hereby amended by striking out, in line 12, the words “telecommunications and energy appointed under section twelve F of chapter twenty five” and inserting in place thereof the following words:- transportation oversight

SECTION 26. Section 5 of chapter 21E of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 240 and 241, the words “department of telecommunications and energy” and inserting in place thereof the following words:- executive office of energy affairs

SECTION 27. Section 19 of chapter 21G of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words “telecommunications and energy” and inserting in place thereof the following words:- utility regulation and oversight

SECTION 28. Said section 19 of said chapter 21G, as so appearing, is hereby further amended by striking out, in lines 4 and 5, the words “telecommunications and energy” and inserting in place thereof the following words:- utility regulation and oversight

SECTION 29. Said section 19 of said chapter 21G, as so appearing, is hereby further amended by striking out, in lines 10 and 11, the words “telecommunications and energy” and inserting in place thereof the following words:- utility regulation and oversight

SECTION 30. Section 3 of chapter 23G of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out in line 99 the words “department of telecommunications and energy” and inserting in place thereof the following words:- executive office of energy affairs

SECTION 31. Section 1 of chapter 24A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out in lines 17 through 18, inclusive, the words:- “the department of telecommunications and energy and all other state agencies within said department,”

SECTION 32. Said section 1 of said chapter 24A, as so appearing, is hereby further amended by striking out in lines 22 through 23, inclusive, the words:- “and the community antenna television commission;”

SECTION 33. Said section 1 of said chapter 24A, as so appearing, is hereby further amended by striking out in lines 26 through 28, inclusive, the words:- five; and (4) the division of energy resources established under the provisions of section 1 of chapter 25A.” and inserting in place thereof the following:- 5.

SECTION 34. Section 3 of said Chapter 24A is hereby repealed.

SECTION 35. Section 4 of said Chapter 24A is hereby repealed.

SECTION 36. Chapter 25 is hereby repealed.

SECTION 37. Chapter 25A is hereby repealed.

SECTION 38. Section 2 of chapter 25B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 3, the words “Commissioner”, the commissioner of the division of energy resources.

SECTION 39. Said section 2 of said chapter 25B, as so appearing, is hereby further amended by inserting after the definition of “State plumbing code” the following definition:-

“Undersecretary”, the undersecretary of alternative and renewable energy development.

SECTION 40. Section 4 of said chapter 25B, as so appearing, is hereby amended by striking out in line 9, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 41. Said section 4 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 10, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 42. Section 5 of said chapter 25B, as so appearing, is hereby amended by striking out, in line 1, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 43. Said section 5 of said chapter 25B, as so appearing, is hereby further amended by striking out, in lines 4 and 5, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 44. Said section 5 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 6, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 45. Said section 5 of said chapter 25B, as so appearing, is hereby further amended by striking out, in lines 8 and 9, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 46. Said section 5 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 13, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 47. Section 6 of said chapter 25B, as so appearing, is hereby amended by striking out, in line 1, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 48. Said section 6 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 4, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 49. Section 7 of said chapter 25B, as so appearing, is hereby amended by striking out, in line 2, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 50. Said section 7 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 3, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 51. Section 8 of said chapter 25B, as so appearing, is hereby amended by striking out, in line 1, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 52. Said section 8 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 3, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 53. Section 9 of said chapter 25B, as so appearing, is hereby amended by striking out, in line 1, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 54. Said section 9 of chapter 25B of the General Laws, as so appearing, is hereby further amended by striking out, in line 3, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 55. Said section 9 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 5, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 56. Said section 9 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 10, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 57. Said section 9 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 11, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 58. Section 10 of said chapter 25B, as so appearing, is hereby amended by striking out, in line 1, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 59. Said section 10 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 2, the word “commissioner” and inserting in place thereof the following word:- undersecretary

SECTION 60. Said section 10 of said chapter 25B, as so appearing, is hereby further amended by striking out, in line 5, the word “energy” and inserting in place thereof the following words:- telecommunications, utilities, and energy

SECTION 61. Section 39B of chapter 30 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 9, the words “telecommunications and energy” and inserting in place thereof the following words:- transportation oversight

SECTION 62. Said section 39B of said chapter 30, as so appearing, is hereby further amended by striking out, in lines 13 and 14, the words “telecommunications and energy” and inserting in place thereof the following words:- transportation oversight

SECTION 63. Said section 39B of said chapter 30, as so appearing, is hereby further amended by striking out, in line 18, the words “telecommunications and energy” and inserting in place thereof the following words:- transportation oversight

SECTION 64. Said section 39B of said chapter 30, as so appearing, is hereby further amended by striking out, in line 33, the words “telecommunications and energy” and inserting in place thereof the following words:- transportation oversight

SECTION 65. Section 39C of said chapter 30, as so appearing, is hereby amended by striking out, in line 5, the words “telecommunications and energy” and inserting in place thereof the following words:- transportation oversight

SECTION 66. Section 39E of said chapter 30, as so appearing, is hereby amended by striking out, in line 8, the words “telecommunications and energy” and inserting in place thereof the following words:- transportation oversight

SECTION 67. Section 1 of chapter 30B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended in paragraph (1) of subsection (b), by striking the words “section 11I of chapter 25A” and inserting in place thereof the following words:-section 29 of chapter 6C

SECTION 68. Said section 1 of said chapter 30B, as so appearing, is hereby further amended by striking out in lines 96 and 97 the words “department of telecommunications and energy, the division of energy resources,” and inserting in place thereof the following words:- the executive office of energy affairs

SECTION 69. Section 48 of chapter 31 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 10, the words “department of telecommunications and energy” and inserting in place thereof the following words:- executive office of energy affairs

SECTION 70. Section 8 of chapter 38 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 9, the words “department of telecommunications and energy” and inserting in place thereof the following words:- executive office of energy affairs

SECTION 71. Section 9 of said chapter 38, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words “department of telecommunications and energy” and inserting in place thereof the following words:- executive office of energy affairs

SECTION 72. Said section 9 of said chapter 38, as so appearing, is hereby further amended by striking out, in line 5, the word “department” and inserting in place thereof the following words:- executive office

SECTION 73. Section 22D of chapter 40 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 36, the words “telecommunications and energy” and inserting in place thereof the following words:- transportation oversight

SECTION 74. Section 39C of said chapter 40, as so appearing, is hereby amended by striking out, in line 26, the words “telecommunications and energy” and inserting in place thereof the following words:- utility regulation and oversight

SECTION 75. Section 3 of chapter 40A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 37, the words “telecommunications and energy” and inserting in place thereof the following words:- utility regulation and oversight

SECTION 76. Said section 3 of said chapter 40A, as so appearing, is hereby further amended by striking out, in lines 45 and 46, the words

"telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 77. Section 4E of chapter 40J is hereby repealed.

SECTION 78. Section 2A of chapter 59 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 55, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 79. Section 38H of said chapter 59, as so appearing, is hereby further amended by striking out, in line 2 the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 80. Said section 38H of chapter 59, as so appearing, is hereby further amended by striking out, in lines 139 and 140 the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 81. Section 1 of chapter 62 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting at the end thereof the following paragraphs:-

(p) "Alternative fuel vehicle", a vehicle powered by alternative fuel and having the following attributes: the capability of operating only on an alternative fuel; original use commencing with the taxpayer; and acquisition by the taxpayer for use or lease, but not for resale.

(q) "Hybrid vehicle", (i) a vehicle which draws propulsion energy from onboard sources of stored energy which are both: (a) an internal combustion or heat engine using combustible fuel; and (b) a rechargeable energy storage system; (ii) a vehicle which, in the case of a passenger automobile, medium duty passenger vehicle or light truck: (a) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year; (b) for 2004 and later model vehicles, has received a certificate that the vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle; and (c) and achieves an increase of 10 per cent fuel efficiency as compared to the

average vehicle of its class as defined by the federal Environmental Protection Agency.

SECTION 82. Section 2 of said chapter 62 of the General Laws, as so appearing, is hereby amended by striking out, in line 65, the words "commissioner of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 83. Said section 2 of said chapter 62, as so appearing, is hereby further amended by striking out, in line 73, the words "commissioner of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 84. Said section 2 of said chapter 62, as so appearing, is hereby further amended by striking out, in lines 78 and 79, the words "commissioner of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 85. Subpart B of section 3 of said chapter 62, as so appearing, is hereby amended by inserting after paragraph 9 the following paragraph:-

(9½). For taxable years beginning on January 1, 2007, in the case of an individual who purchases a hybrid or alternative fuel vehicle there shall be a deduction in the amount of \$2,000 for a single person, for a person who qualifies as a head of household under section 2(b) of the Code or a married couple in the taxable year in which the purchase is made. The department of revenue may require a proof of purchase to be submitted with a return in order to be eligible for the deduction.

SECTION 86. Section 30 of chapter 63 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 69 and 70, the words "commissioner of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy develop

SECTION 87. Said section 30 of said chapter 63, as so appearing, is hereby amended by striking out, in lines 81 and 82, the words "commissioner of energy resources" and inserting in place thereof the following words:-

undersecretary of the executive office of energy affairs for alternative and renewable energy develop

SECTION 88. Said chapter 63, as so appearing, is hereby amended by inserting after section 38S following section:-

Section 38T. (a) A credit of up to \$300 or 15 per cent, whichever is less, of the aggregate cost of the purchase and installation of a solar water heating system shall be allowed per return against the taxes imposed by this chapter for the cost of the retail purchase and installation of a solar water heating system in a commercial building.

(b) The commissioner of revenue shall promulgate rules and regulations necessary for the implementation of this section. The rules and regulations shall include provisions to prevent the generation of multiple credits with respect to the same property.

(c) A credit allowed under this section for the purchase and installation of a solar water heating system in a commercial building between November 1, 2007 and March 31, 2008 may be applied for the taxable year 2007. The taxpayer may carry over and apply to the tax, in taxable year 2008, the portion of those credits which exceed the tax for taxable year 2007 subject to regulations by the commissioner of revenue.

(d) The provisions of this section shall be effective until March 31, 2008.

SECTION 89. Section 6 of chapter 64H of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 328 and 329, the words " telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 90. Said section 6 of said chapter 64H, as so appearing, is hereby further amended by striking out, in lines 332-333, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 91. Section 3 of chapter 79 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 10, the words ", or by the department of telecommunications and energy"

SECTION 92. Section 5B of said chapter 79, as so appearing, is hereby amended by striking out, in lines 12 and 13, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 93. Section 5C of said chapter 79, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 94. Section 13 of chapter 81A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out in line 31 the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 95. Section 40B of chapter 82 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

The designation markings required by this section shall be performed by trained permanent employees of the utility unless otherwise authorized by a collective bargaining agreement. If no such trained permanent employees are available, the department of utility regulation and oversight may certify and license outside companies to perform such designation markings. Moreover, to receive a building permit from any municipality, or political subdivision thereof, for any work requiring excavation, an individual shall provide certification of compliance with this section. Any utility that violates any provision of this section shall forfeit a penalty as determined by the department utility regulation and oversight. Penalties incurred under this section shall not be included as expenses in connection with the establishment of rates by said company.

SECTION 96. Section 40E of said chapter 82, as so appearing, is hereby amended by striking out, in line 2, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 97. Section 1 of chapter 83 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 43, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 98. Section 4 of said chapter 83, as so appearing, is hereby amended by striking out, in line 16, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 99. Section 1 of chapter 90 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 317, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 100. Section 1A of said chapter 90, as so appearing, is hereby amended by striking out, in line 5, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 101. Section 7B of said chapter 90, as so appearing, is hereby amended by striking out, in lines 26 and 27, the words "the commissioner of the department of telecommunications and energy" and inserting in place thereof the following words:- the director of the department of transportation oversight, or his designee

SECTION 102. Said section 7B of said chapter 90, as so appearing, is hereby further amended by striking out, in line 124, the words "commissioner of the department of telecommunications and energy" and inserting in place thereof the following words:- director of the department of transportation oversight

SECTION 103. Section 8A of said chapter 90, as so appearing, is hereby amended by striking out, in line 36, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 104. Said section 8A of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 40 and 41, the words "commissioner of the department of telecommunications and energy" and inserting in place thereof the following words:- director of the department of transportation oversight

SECTION 105. Said section 8A of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 42 and 43, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 106. Said section 8A of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 46 and 47, the words "commissioner of the department of telecommunications and energy" and inserting in place thereof the following words:- director of the department of transportation oversight

SECTION 107. Section 8A½ of said chapter 90, as so appearing, is hereby amended by striking out, in lines 40 and 41, the words "or the department of telecommunications and energy"

SECTION 108. Section 9 of said chapter 90, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of transportation and construction

SECTION 109. Section 33 of said chapter 90, as so appearing, is hereby amended by striking out, in line 39, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of transportation and construction

SECTION 110. Section 40H of said chapter 90, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 111. Section 1 of chapter 90C of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 69 and 70, the words "transportation division of the department of telecommunications and energy" and inserting in place thereof the following words:- executive office of transportation and construction

SECTION 112. Section 43 of chapter 92 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of transportation and construction

SECTION 113. Section 44 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of transportation and construction

SECTION 114. Section 50 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of transportation and construction

SECTION 115. Section 51 of said chapter 92, as so appearing, is hereby amended by striking out, in line 1, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 116. Section 67 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of transportation and construction

SECTION 117. Section 68 of said chapter 92, as so appearing, is hereby amended by striking out, in line 6, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 118. Section 24 of chapter 93 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 54, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 119. Section 108 of said chapter 93, as so appearing, is hereby amended by striking out in line 6 the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 120. Section 8 of chapter 110C of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 4, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 121. Section 142N of chapter 111 of the General Laws, as appearing in the 2004 Edition, is hereby amended by striking out, in line 6, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 122. Section 81R of chapter 112 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in

lines 81 and 82, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 123. Section 34A of chapter 132 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 12 and 13, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 124. Said section 34A of said chapter 132, as so appearing, is hereby further amended by striking out, in line 25, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 125. Said section 34A of said chapter 132, as so appearing, is hereby further amended by striking out, in line 35, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 126. Said section 34A of said chapter 132, as so appearing, is hereby further amended by striking out, in line 38, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 127. Section 16 of chapter 132A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 14 and 15, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 128. Section 7 of chapter 141 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 17 and 18, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 129. Section 14 of chapter 142A of the General Laws, as so appearing, is hereby amended by striking out, in line 37, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 130. Section 71S of chapter 143 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words "department of telecommunications and energy" and

inserting in place thereof the following words:- executive office of transportation and construction

SECTION 131. Section 94 of said chapter 143, as so appearing, is hereby amended by inserting after the word “in” in line 61 the following words: subsection (m) and

SECTION 132. Said section 94 of said chapter 143, as so appearing, is hereby further amended by inserting at the end thereof the following:-

(m) To revise and amend the energy conservation code and to send a copy of such revisions or amendments to each inspector of buildings or building commissioner in every city or town and to each state inspector; provided, further, that the board shall revise or amend said code every 5 years.

SECTION 133. Section 57 of chapter 147 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 18, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 134. Section 26E of chapter 148 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 30, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 135. Section 44A of chapter 149 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended, in line 106, by striking the words “section 11C of chapter 25A” and inserting in place thereof the following words:- section 28 of chapter 6C

SECTION 136. Section 148 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 25 and 26, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of transportation and construction

SECTION 137. Section 4 of chapter 155 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 3 and 4, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 138. Section 5 of said chapter 155, as so appearing, is hereby amended by striking out, in line 1, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 139. Section 5A of said chapter 155, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 140. Section 16 of chapter 158 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 141. Section 39 of said chapter 158, as so appearing, is hereby amended by striking out, in line 8, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 142. Section 40 of said chapter 158, as so appearing, is hereby amended by striking out, in line 4, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 143. Section 10 of chapter 159 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 1, the words "telecommunications and energy," and inserting in place thereof the following words:- transportation oversight

SECTION 144. Section 59 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words "of telecommunications and energy"

SECTION 145. Said section 59 of said chapter 159, as so appearing, is hereby further amended by striking out, in lines 15 and 16, the words "of telecommunications and energy"

SECTION 146. Said section 59 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 26, the words "of telecommunications and energy"

SECTION 147. Said section 59 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 28, the words "of telecommunications and energy"

SECTION 148. Section 65 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "telecommunications and energy" and inserting in place thereof the following:- transportation oversight

SECTION 149. Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 18, the words "of telecommunications and energy"

SECTION 150. Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 24, the words "of telecommunications and energy"

SECTION 151. Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 27, the words "of telecommunications and energy"

SECTION 152. Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 29, the words "of telecommunications and energy"

SECTION 153. Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking out, in lines 37 and 38, the words "of telecommunications and energy"

SECTION 154. Section 70 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 20 and 21, the words "of telecommunications and energy"

SECTION 155. Said section 70 of said chapter 159, as so appearing, is hereby further amended by striking out, in lines 49 through 52, the words "the chairman of the commission having supervision and control of the department of telecommunications and energy and any other member of said commission designated by said chairman" and inserting in place thereof the following words:- the director of the department of transportation oversight

SECTION 156. Said section 70 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 63, the words "of telecommunications and energy"

SECTION 157. Said section 70 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 65, the words "of telecommunications and energy"

SECTION 158. Section 73 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "of telecommunications and energy"

SECTION 159. Section 74 of said chapter 159, as so appearing, is hereby amended by striking out, in line 4, the words "of telecommunications and energy"

SECTION 160. Said section 74 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 17, the words "of telecommunications and energy"

SECTION 161. Said section 74 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 21, the words "of telecommunications and energy"

SECTION 162. Said section 74 of said chapter 159, as so appearing, is hereby further amended by striking out, in lines 46 and 47, the words "of telecommunications and energy"

SECTION 163. Section 78 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words "of telecommunications and energy"

SECTION 164. Section 79 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "of telecommunications and energy"

SECTION 165. Section 80 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 22 and 23, the words "of telecommunications and energy"

SECTION 166. Said section 80 of said chapter 159, as so appearing, is hereby further amended by striking out, in lines 34 and 35, the words "of telecommunications and energy"

SECTION 167. Said section 80 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 36, the words "of telecommunications and energy"

SECTION 168. Said section 80 of said chapter 159, as so appearing, is hereby further amended by striking out, in lines 40 and 41, the words "of telecommunications and energy"

SECTION 169. Section 1 of chapter 159A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following:-

If any application for a license under this section is not favorably acted upon within a period of 60 days after the filing thereof, the applicant may appeal to the executive office of transportation and construction within 5 days following the expiration of said period or, if notice of unfavorable action is sooner given, within 5 days of said notice, upon a petition in writing setting forth all the material facts in the case. The executive office of transportation and construction shall hold a hearing on each such appeal, requiring due notice to be given to all interested parties. If the executive office of transportation and construction approves the action of the licensing authority, it shall issue notice to that effect, but if the executive office of transportation and construction disapproves of said action, it shall act as a licensing authority and may issue a license which shall specify the route or routes on which a motor vehicle subject to this section may be operated and the number of vehicles which may be operated under such license.

SECTION 170. Section 2 of said chapter 159A, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 171. Section 3 of said chapter 159A, as so appearing, is hereby amended by striking out, in line 6, the words " telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 172. Section 2 of chapter 159B of the General Laws, as so appearing, is hereby amended by striking out, in lines 21 and 22, the words

"Commissioners, the commissioners of the department of telecommunications and energy"

SECTION 173. Said section 2 of said chapter 159B, as so appearing, is hereby further amended by striking out, in line 38, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 174. Said section 2 of said chapter 159B, as so appearing, is hereby further amended by striking out, in line 88, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 175. Section 5 of chapter 159C of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out in line 13 the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 176. Section 1 of chapter 160 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 7, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 177 Section 104 of said chapter 160, as so appearing, is hereby amended by striking out, in lines 14 and 15, the words "of telecommunications and energy"

SECTION 178. Said section 104 of said chapter 160, as so appearing, is hereby further amended by striking out, in lines 20 and 21, the words "of telecommunications and energy"

SECTION 179. Section 127A of said chapter 160, as so appearing, is hereby amended by striking out, in line 1, the words "of telecommunications and energy"

SECTION 180. Section 134A of said chapter 160, as so appearing, is hereby amended by striking out, in lines 29 and 30, the words "of telecommunications and energy"

SECTION 181. Said section 134A of chapter 160, as so appearing, is hereby further amended by striking out, in line 34, the words "of telecommunications and energy"

SECTION 182. Section 145 of said chapter 160, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "of telecommunications and energy"

SECTION 183. Section 147A of said chapter 160, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "of telecommunications and energy"

SECTION 184. Section 1 of chapter 161 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 7, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 185. Section 82 of said chapter 161, as so appearing, is hereby amended by striking out, in line 9, the words "of telecommunications and energy"

SECTION 186. Section 85 of said chapter 161, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words "of telecommunications and energy"

SECTION 187. Said section 85 of chapter 161, as so appearing, is hereby further amended by striking out, in lines 18 and 19, the words "of telecommunications and energy"

SECTION 188. Said section 85 of chapter 161, as so appearing, is hereby further amended by striking out, in lines 20 and 21, the words "of telecommunications and energy"

SECTION 189. Said section 85 of chapter 161, as so appearing, is hereby further amended by striking out, in lines 25 and 26, the words "of telecommunications and energy"

SECTION 190. Section 3 of chapter 161A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 71, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 191. Section 5 of said chapter 161A, as so appearing, is hereby amended by striking out, in lines 169 and 170, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 192. Section 39 of said chapter 161A, as so appearing, is hereby amended by striking out in line 2 the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 193. Said section 39 of said chapter 161A, as so appearing, is hereby further amended by striking out in lines 3 and 4 the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 194. Section 47 of said chapter 161A, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 195. Section 6 of chapter 161B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 60, the words "department of telecommunications and energy"

SECTION 196. Section 8 of said chapter 161B, as so appearing, is hereby amended by striking out, in line 82, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 197. Section 16 of said chapter 161B, as so appearing, is hereby amended by striking out, in line 2, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 198. Said section 16 of said chapter 161B, as so appearing, is hereby further. amended by striking out, in lines 3 and 4, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of transportation and construction

SECTION 199. Section 1 of chapter 162 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 2, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 200. Section 1 of chapter 163 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 2, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 201. Section 1 of chapter 164 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the definition of "Articles of organization", the following definition:-

"Basic service", the electricity services provided to a retail customer upon either (i) the inability of a customer to receive competitive supply from a supplier pursuant to subsection (d) of section 1B, (ii) the failure of the retail customer to elect competitive supply from a supplier pursuant to said subsection (d) of said section 1B, or (iii) upon the expiration and the retail customers failure to renew a competitive supply contract pursuant to said subsection (d) of said section 1B or other means.

SECTION 202. Said section 1 of chapter 164, as so appearing in the, is hereby amended by striking in 71 the words "telecommunications and energy" and inserting in place thereof the following:-utility regulation and oversight

SECTION 203. Said section 1 of said chapter 164, as so appearing, is hereby further amended by striking out, in lines 72 through 78, inclusive, the words ""Default Service", the electricity services provided to a retail customer upon either the (i) failure of a distribution company or supplier to provide such electricity services as required by law or as contracted for under the standard service offer, (ii) the completion of the term of the standard service offer, or (iii) upon the inability of a customer to receive standard service transition rates during the term of the standard service offer pursuant to section 1B."

SECTION 204. Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Energy efficiency" the following definition:-

"Executive office", the executive office of energy affairs established pursuant to section 2 of chapter 6C of the General Laws.

SECTION 205. Section 1B of said chapter 164, as so appearing, is hereby amended by striking out, in lines 50 and 51, the words "default service provided pursuant to the provisions of subsection (d)" and inserting in place thereof the following word:- basic service provided pursuant to the provisions of subsection (e)

SECTION 206. Said chapter 164, as so appearing, is hereby further amended by striking out subsections (d) through (f) of said section 1B and inserting in place thereof the following:-

(d) On or before January 1, 2008 the department shall, through a contested case proceeding in compliance with chapter 30A, design a competitive bidding process for the competitive procurement of electric generation by distribution companies on behalf of consumers. Any order of the department shall be consistent with the provisions of section 1F and shall require each distribution company: (i) at the expiration of each basic service contract entered into pursuant to subsection (e), provide its customers with a choice of suppliers or the option to remain on basic service pursuant to subsection (e); and (ii) to solicit bids from non-utility affiliated generation companies or suppliers licensed pursuant to section 1F which shall include payment options with rates that remain uniform for a minimum period of 1 year. Any department-approved supplier of service, excluding an affiliate of a distribution company, shall be eligible to participate in the competitive bidding process. Notwithstanding the actual issuer of a ratepayer's bill, the competitive retail service supplier shall be entitled to furnish a one-page insert accompanying the ratepayer's bill. The department may authorize an alternate generation company or supplier to provide such competitive service, as described herein, if such alternate service is in the public interest.

(e) Each distribution company shall provide its customers with basic service and shall offer a basic service rate to its customers who have chosen retail electricity service from a non-utility affiliated generation company or supplier but who require electric service because of a failure of such company or the supplier to provide contracted service or who, for any reason, have stopped receiving such service. The distribution company shall procure such service through competitive bidding; provided, however, that the basic service rate so procured shall not exceed the average monthly market price of electricity; and provided, further, that all bids shall include payment options with rates that remain uniform for periods of up to 6 months. Any department-approved provider of service, including an affiliate of a distribution company, shall be eligible to participate in the competitive bidding process. Notwithstanding the actual issuer of a ratepayer's bill, the basic service provider shall be entitled to furnish a one-page insert accompanying the ratepayer's bill. The department may authorize an alternate generation company or supplier to provide basic service, as described herein, if such alternate service is in the public interest. In implementing the provisions of this section, the department shall ensure universal service for all ratepayers and sufficient funding to meet the need therefor.

(f) The department is hereby authorized and directed to promulgate rules and regulations necessary to carry out the provisions of this section, including the procedure for a competitive bidding process pursuant to subsection (d), the procedure for basic service procurement pursuant to subsection (e) and governing a customer's ability to return to the basic service after choosing retail access from a non-utility affiliated generation company.

SECTION 207. Said chapter 164, as so appearing, is hereby further amended by striking out section 1C and inserting in placed thereof the following:-

Section 1C. Any marketing company or other competitive or unregulated operation or entity of an electric or gas company shall be in the form of an affiliate of said company and shall be separate from any generation, transmission, or distribution company affiliate of the electric or gas company. The department shall promulgate standards of conduct which shall ensure the separation of such affiliates and which shall be consistent with the following provisions: (i) a distribution or gas company, or an affiliate thereof, shall not directly or indirectly use proceeds obtained from providing regulated services, or assets obtained with such proceeds, to subsidize non-regulated services; said prohibition shall extend to the use of vehicles, service tools, instruments, and employees, and the costs, salaries and benefits related thereto; (ii) a distribution or gas company shall not give any affiliates any preference over non-affiliated suppliers or customers thereof in matters relating to any product or service; (iii) all products, services, discounts, rebates, and fee waivers offered by a distribution or gas company shall be available to all customers and suppliers simultaneously, to the extent technically possible, on a comparable basis; (iv) a distribution or gas company shall process all same or similar requests for any product, service, or information in the same manner and within the same period of time; (v) a distribution or gas company shall not condition the provision of any product, service, or rate agreement by the distribution or gas company to the provision of any product or service to which an affiliate is involved; (vi) a distribution or gas company shall not share with any affiliate any market information acquired or developed by the distribution or gas company in the course of responding to requests for distribution or gas service or any proprietary customer information including, but not limited to, mailing lists, marketing information, and other customer related information, unless the use of such information is available to all commercial businesses on a non-discriminatory basis; (vii) a distribution or gas company shall refrain from presenting that any advantage accrues to customers or others in the use of its services as a result of that customer or others dealing with any such affiliate; (viii) a distribution or gas company shall not engage in joint advertising or marketing programs with any affiliate; and (ix) employees of a distribution or

gas company shall not be shared with, and shall be physically separated from those of, any generating or marketing affiliate.

Upon the filing of a written complaint with the department requesting determination of compliance by a distribution or gas company, or an affiliate of a distribution or gas company, with the provisions of this section or any rule, order, or other action promulgated pursuant thereto, the department shall investigate the complaint, and upon the determination that there are reasonable grounds to proceed, the department shall promptly initiate formal complaint proceedings. If the department determines that there is no reasonable basis for initiating a formal complaint proceeding, it shall so advise, in writing, the person filing such written complaint within 90 days. The department shall establish such penalties as necessary to assure compliance; provided, however, that any penalty incurred under this section shall not be included as expenses in connection with the establishment of rates by said distribution or gas company. Any final judgment or determination issued by the department, as a result of an investigation or otherwise, that an electric or gas company or an affiliate thereof has violated either (1) the provisions of this section; or (2) any rule, order, or settlement promulgated pursuant thereto, shall be prima facie evidence in any civil action against the distribution or gas company or its affiliate to recover damages or obtain injunctive relief.

A violation of this section shall constitute an unfair or deceptive act or practice under the provisions of chapter 93A, notwithstanding any contrary provision of any other law of the commonwealth or any exemption provided by said chapter 93A.

It shall be the duty of the Attorney General of the Commonwealth to institute proceedings in the Superior Court to prevent and restrain violations of this section. When the Attorney General has reason to believe an electric or gas company or its affiliate is engaging in a violation of this section, the Attorney General shall bring an action to enjoin the electric or gas company, the affiliate, or both, from engaging in a violation of this section.

SECTION 208. Section 1D of said chapter 164, as so appearing, is hereby amended by striking out, in line 1, the words “Beginning January 1, 1998, all” and inserting in place thereof the following word:- All

SECTION 209. Said section 1D of said chapter 164, as so appearing, is hereby amended by striking out, in line 6, the words “on bills as of March 1, 1998” and inserting in place thereof the following words:- on said bills

SECTION 210. Said section 1D of said chapter 164, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words “Not later than six

months after said March 1, in” and inserting in place thereof the following word:- In

SECTION 211. Said chapter 164, as so appearing, is hereby amended by striking section 1E and inserting in place thereof the following:-

Section 1E. (a) The department is hereby authorized and required to promulgate rules and regulations to establish and require performance based rates for each distribution, transmission, and gas company organized and doing business in the commonwealth pursuant to the provisions of this chapter. In promulgating such performance based rate schemes, the department shall establish service quality standards and a service quality rating mechanism for each distribution, transmission, and gas company, including, but not limited to, standards for customer satisfaction, education and outreach, service outages, distribution facility upgrades, repairs and maintenance, telephone service, billing service, and public safety provided, however, that such service quality standards shall include benchmarks for employee staff levels and employee training programs for each such distribution, transmission, and gas company. A distribution company shall receive an annual service quality rating according to the following scale: Excellent, Good, Fair, Poor. The department shall annually order distribution companies to publish on customer’s bills, the service quality rating of each distribution company and the categories used to measure the service quality standards.

(b) In complying with the service quality standards and employee benchmarks established pursuant to this section, a distribution, transmission, or gas company that makes a performance based rating filing after November 1, 1997 shall not be allowed to engage in labor displacement or reductions below staffing levels in existence on November 1, 1997, unless such are part of a collective bargaining agreement or agreements between such company and the applicable organization or organizations representing such workers, or with the approval of the department following an evidentiary hearing at which the burden shall be upon the company to demonstrate that such staffing reductions shall not adversely disrupt service quality standards as established by the department herein. At the time of any filings made pursuant to this section, if staffing levels have decreased below those in effect on November 1, 1997, the department shall hold evidentiary hearings to determine if staffing levels in said company are adequate; provided further, that unless the company establishes, by clear and convincing evidence, that said staffing levels are adequate, the department shall hold that staffing levels within any function, department, or work unit, below those in existence on November 1, 1997 are unsafe and therefore not in compliance with this section. The results of the hearings shall be binding on both parties and the civil penalty for non-compliance shall be no less than \$10,000.00 per day; provided, however, that the maximum civil penalty shall

not exceed \$500,000 for any related series of violations. Nothing in this paragraph shall prevent reduction of forces below the November 1, 1997 level through early retirement and severances negotiated with labor organizations before said date. The preceding provisions of this paragraph notwithstanding, in no event shall the department fail to establish benchmarks for employee staffing levels for each distribution, transmission and gas company by September 1, 2005, regardless of whether any company has at any time used, implemented or discontinued the use of any set of performance based rates.

(c) Each distribution, transmission, and gas company shall file a report with the department by March first of each year comparing its performance during the previous calendar year to the department's service quality standards and any applicable national standards as may be adopted by the department. Such report shall include, but not be limited to, all available information on customer satisfaction, education and outreach, service outages, distribution facility upgrades, repairs and maintenance, telephone service, billing service, public safety, employee staff levels, and any other service quality measurement standards the department may adopt. Upon receipt of such filing, the department shall, after public notice, hold a public hearing to review the report. The department shall be authorized to levy a penalty against any distribution, transmission, or gas company which fails to meet the service quality standards in an amount up to and including the equivalent of 5 per cent of such company's transmission and distribution service revenues for the previous calendar year. The department shall review and investigate upon its own motion or upon motion of the attorney general or the office of the ratepayer advocate, the maintenance practices and procedures of any distribution, transmission, and gas company to determine whether such practices and procedures are in the best interest of the retail customers of such company. The department shall after public notice, hold a public hearing to review and investigate any distribution outage and shall issue a finding as to whether the company made all reasonable or prudent efforts, consistent with best practices, safety and reliability of electric and gas service, to provide customers reliable service at the least possible overall cost reasonably calculated to achieve the highest possible service quality rating. If the department finds, based on facts that were known or should reasonably have been known by the company at the time of the actions in question, that the company is or has been unreasonable or imprudent in providing reliable service, it shall levy a penalty against the company and deny recovery of any costs directly or indirectly attributable to such unreasonable or imprudent performance.

(d) The department is authorized and directed to promulgate regulations relative to an alternative dispute resolution process for the handling of damage claims by customers in an amount under \$100. The department shall establish a

60 day timeline for the resolution of all mediation claims. The department shall issue a biannual report to the house and senate clerks and the joint committee on telecommunications, utilities and energy which shall include, but not be limited to, the following information: nature of consumer claims, number of consumer claims and resolutions of consumer claims reviewed by the department during the previous six months. Said report shall be available for public review at the department.

SECTION 212. Section 1F of said chapter 164, as so appearing, is hereby amended by striking out, in line 90, the words “division of energy resources” and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 213. Said section 1F of said chapter 164, as so appearing, is hereby amended by striking out, in line 94, the word “division” and inserting in place thereof the following word:- department

SECTION 214. Said section 1F of said chapter 164, as so appearing, is hereby further amended by striking out, in lines 104 through 121, inclusive, the words “Not later than March 1, 1999 the department shall conduct an investigation and report to the joint committee on government regulations regarding the cost and benefits of expanding eligibility for the discount rates established in clause (i) of subparagraph (4) of the first paragraph of section 1F to any low-income customer who is eligible for any means tested public benefit for which eligibility does not exceed 175 per cent of the federal poverty level based on gross household income. The department shall further provide to said committee any legislative recommendations necessary to implement this section.

(ii) Prior to the termination of the seven year period of the standard service transition rate, the department shall, in consultation with said division, evaluate the effects of electricity restructuring on the affordability of electric power for low-income customers. The department shall make recommendations to the general court relative to the continuation of the low-income discount rate authorized pursuant to this subsection or to make modifications thereto. The department shall, in its recommendations, consider whether or not to modify said discount by establishing a sliding scale low-income discount program.”

SECTION 215. Said section 1F of said chapter 164, as so appearing, is hereby amended by striking out, in lines 123 and 124, the words "and may return to standard offer service anytime including from default service"

SECTION 216. Said section 1F of said chapter 164, as so appearing, is hereby further amended by striking out, in line 126, the words "and standard offer service"

SECTION 217. Said section 1F of said chapter 164 of the General Laws, as so appearing, is hereby further amended by striking out, in line 129, the words "standard offer" and inserting in place thereof the following word:- basic

SECTION 218. Said section 1F of said chapter 164 of the General Laws, as so appearing, is hereby further amended by striking out, in lines 130 through 133, inclusive, the words "A residential customer eligible for low-income discount receiving standard offer service shall be allowed to retain standard offer service upon moving within the service territory of a distribution company."

SECTION 219. Said section 1F of said chapter 164 of the General Laws, as so appearing, is hereby further amended by striking out, in lines 135 and 136, the word "rates, default service, or standard offer" and inserting in place thereof the following words:- rates or basic

SECTION 220. Said section 1F of said chapter 164 of the General Laws, as so appearing, is hereby further amended by striking out, in line 140, the words "rates, default service, or standard offer" and inserting in place thereof the following word:- rates or basic

SECTION 221. Said section 1F of said chapter 164 of the General Laws, as so appearing, is hereby further amended by striking out, in line 168, the word "default" and inserting in place thereof the following word:- basic

SECTION 222. Said section 1F of said chapter 164, as so appearing, is hereby amended by inserting after the phrase "1997" in line 225 the following:-

and, in accordance with Section 1E, shall establish benchmark staffing levels adequate to ensure that service quality and reliability do not decline below levels that existed on November 1, 1997.

SECTION 223. Said section 1F of said chapter 164, as so appearing, is hereby further amended by striking out, in lines 380 through 382, inclusive, the words "Beginning with calendar year 1999, the department shall, by March 31 of each year, file an annual report with the joint committee on government regulations" and inserting in place thereof the following:- The department shall

annually, by March 31 of each year, file a report with the joint committee on telecommunications, utilities and energy

SECTION 224. Section 1G of said chapter 164 of the General Laws, as so appearing, is hereby amended by striking out, in lines 178 through 183, inclusive, the words “section, including, but not limited to, the department may authorize an alternate generation company or supplier to provide the standard offer service package as set forth in subsection (b) of section 1B if said alternate service is determined by the department to be in the public interest and necessary to achieve said required rate reductions for its consumers” and inserting in place thereof the following word:- section

SECTION 225. Section 1G of said chapter 164 of the General Laws, as so appearing, is hereby amended by striking out, in lines 190 through 195, inclusive, the words “section, including, but not limited to, the department may authorize an alternate generation company or supplier to provide the standard offer service package as set forth in subsection (b) of section 1B if said alternate service is determined by the department to be in the public interest and necessary to achieve said required rate reductions for its consumers” and inserting in place thereof the following word:- section

SECTION 226. Said section 1G of said chapter 164, as so appearing, is hereby amended by striking out, in lines 366 and 367, the words “government regulations” and inserting in place thereof the following:- telecommunications, utilities and energy

SECTION 227. Said section 1G of said chapter 164, as so appearing, is hereby further amended by striking out, in line 436, the words “25, 25A” and inserting in place thereof the following word:- 6C

SECTION 228. Section 1H of said chapter 164, as so appearing, is hereby amended by striking out, in line 7, the words “telecommunications and energy” and inserting in place thereof the following words:- utility regulation and oversight

SECTION 229. Said section 1H of said chapter 164, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “may, by January 1, 1999, and from time to time thereafter” and inserting in place thereof the following words:- may, from time to time,

SECTION 230. Section 69G of said chapter 164, as so appearing, is hereby amended by inserting after the definition of “Board” the following definition:-

“Clean energy generating unit”, any bulk electric generating unit, including associated buildings and structures and electric transmission lines, operating at a gross capacity of 1 megawatt or more, which generates all of its electricity from one or more of the following sources: solar photovoltaic and solar thermal energy; wind energy; ocean thermal, wave, or tidal energy; fuel cells; landfill gas; naturally flowing water and hydroelectric; low emission advanced biomass power conversion technologies using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel storage and conversion technologies connected to qualifying generation projects, as well as combined heat and power facilities which burn only natural gas, coal gasification facilities, plasma gasification facilities, and such other types of facilities as the secretary of the executive office of energy affairs may from time to time designate.

SECTION 231. Said section 69G of said chapter 164, as so appearing, is hereby amended by striking, in lines 18 and 19 the words “telecommunications and energy as established under the provisions of section two of chapter twenty-five.” and inserting in place thereof the following:- executive office of energy affairs established pursuant to the provisions of chapter 6C

SECTION 232. Said section 69G of said chapter 164, as so appearing, is hereby amended by striking, in lines 56 through 59, inclusive, the words “any generating unit designed for or capable of operating at a gross capacity of 100 megawatts or more, including associated buildings, ancillary structures, transmission and pipeline interconnections that are not otherwise facilities, and fuel storage facilities.” and inserting in place thereof the following:- a clean energy generating unit located in a municipality which has transferred its authority to permit the siting of clean energy generating units within the municipality to the board pursuant to section 5 of chapter 6C and any generating unit designed for or capable of operating at a gross capacity of 100 megawatts or more, including associated buildings, ancillary structures, transmission and pipeline interconnections that are not otherwise facilities, and fuel storage facilities.”

SECTION 233. Said section 69G of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of “Propane air” the following definitions:-

“Public Utility Commission”, the public utility commission established pursuant to section 59 of chapter 6C.

“Secretary”, the secretary of the executive office of energy affairs.

SECTION 234. Section 69G of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of “Synthetic natural gas” the following definition:-

“Undersecretary”, the undersecretary of the executive office of energy affairs for utility regulation and oversight.

SECTION 235. Section 69H of said chapter 164, as so appearing, is hereby amended by striking, in lines 15 and 16, the words “chairman and two additional commissioners of the department,” and inserting in place thereof the following:- secretary, the undersecretary and two additional members of the public utility commission,

SECTION 236. Said section 69H of said chapter 164, as so appearing, is hereby amended by striking, in lines 15 and 16, the words “the director of economic development or his designee, the commissioner of energy resources or his designee” and inserting in place thereof the following words:- the secretary of the executive office of housing and economic development or his designee

SECTION 237. Section 69H of said chapter 164, as so appearing, is hereby amended by striking out, in line 25, the words "section two of chapter twenty-five" and inserting in place thereof the following words:- section 59 of chapter 6C

SECTION 238. Said section 69H of said chapter 164, as so appearing, is hereby amended by striking out, in line 30, the words "section 2 of said chapter 25" and inserting in place thereof the following words:- section 59 of chapter 6C

SECTION 239. Section 69H of said chapter 164, as so appearing, is hereby amended by striking, in line 43, the words “chairman of the department” and inserting in place thereof the following:- secretary

SECTION 240. Said section 69H of said chapter 164, as so appearing, is hereby amended by striking, in line 45, the words “chairman, the director of consumer affairs and business regulation” and inserting in place thereof the following:- secretary, undersecretary

SECTION 241. Said section 69H of said chapter 164, as so appearing, is hereby amended by striking out, in lines 77 and 78, the words "the chairman of the department pursuant to section four of chapter twenty-five" and inserting in place thereof the following words:- the secretary pursuant to section 60 of chapter 6C

SECTION 242. Section 69H½ of said chapter 164, as so appearing, is hereby amended by striking out, in line 20, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 243. Section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 1, the word “department” and inserting in place thereof the following words:- executive office

SECTION 244. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 7, the word “department” and inserting in place thereof the following words:- executive office

SECTION 245. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 15, the word “department” and inserting in place thereof the following words:- executive office

SECTION 246. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 24, the words “the department. Neither said department” and inserting in place thereof the following words:- the executive office. Neither said executive office

SECTION 247. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 28, the word

“department” and inserting in place thereof the following words:-
executive office

SECTION 248. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 51, the word “department” and inserting in place thereof the following words:-
executive office

SECTION 249. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 56, the word “department” and inserting in place thereof the following words:-
executive office

SECTION 250. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 59, the word “department” and inserting in place thereof the following words:-
executive office

SECTION 247. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 68, the word “department” and inserting in place thereof the following words:-
executive office

SECTION 248. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 81, the word “department” and inserting in place thereof the following words:-
executive office

SECTION 249. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 89, the word “department” and inserting in place thereof the following words:-
executive office

SECTION 250. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 91, the words “the department. Pursuant to the rules of the department” and inserting in place thereof the following words:- the executive office. Pursuant to the rules of the executive office”

SECTION 251. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in lines 92 and 93, the words “employees of the department shall report back to the

department” and inserting in place thereof the following words:- employees of the executive office shall report back to the executive office

SECTION 252. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 94, the word “department” and inserting in place thereof the following words:- executive office

SECTION 253. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 97, the word “department” and inserting in place thereof the following words:- executive office

SECTION 254. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 100, the word “department” and inserting in place thereof the following words:- executive office

SECTION 255. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 101, the word “department” and inserting in place thereof the following words:- executive office

SECTION 256. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in line 102, the word “department” and inserting in place thereof the following words:- executive office

SECTION 257. Said section 69I of said chapter 164, as so appearing, is hereby amended by striking out, in lines 104 and 104, the word “department” and inserting in place thereof the following words:- executive office

SECTION 258. Section 69P of said chapter 164, as so appearing, is hereby amended by striking out, in line 3, the words "judicial review in the manner provided by section five of chapter twenty-five" and inserting in place thereof the following words:- direct right of judicial review by the supreme judicial court

SECTION 259. Section 75A of said chapter 164, as so appearing, is hereby amended by inserting at the end thereof the following paragraph:-

“Upon installation of a meter measuring gas supplied to any premises, only the authorized permanent employees of the gas company completing said installation shall be authorized to turn on the gas supply; provided further, that the newly installed meter shall remain locked on the service side by the gas company until the local gas inspector inspects the installation of piping to the new gas appliance(s). Upon the successful completion of the inspection, the lock shall only be removed by an authorized permanent employee of the gas company; provided further, that said permanent employee of the gas company shall then light all gas appliances and check all gas related equipment. Any gas company that violates any provision of this section shall forfeit a penalty as determined by the department. Penalties incurred under this section shall not be included as expenses in connection with the establishment of rates by said company.

SECTION 260. Section 75F of said chapter 164, as so appearing, is hereby amended by striking out in lines 8 through 9 the words “one hundred” and inserting in place thereof the following new word:- 1,000

SECTION 261. Section 76 of said chapter 164, as so appearing, is hereby amended inserting at the end thereof the following paragraph:-

The department shall require gas companies to instruct their authorized permanent employees to annually survey their gas piping system for leak detection. Upon discovery of a natural gas leak, said leak shall be investigated, graded, logged and monitored by authorized permanent employees of the gas company and reported to the department; provided further, that officers and employees of the department shall randomly inspect reported leaks on a regular basis. For said regular inspections the department shall collect from the gas company such reasonable fees as it may from time to time prescribe. Any gas company which violates any provision of this section shall forfeit a penalty as determined by the department. Penalties and fees incurred under this section shall not be included as expenses in connection with the establishment of rates by said company.

SECTION 262. Section 76B of said chapter 164, as so appearing, is hereby amended by striking out, in line 5, the words " telecommunications and energy "

and inserting in place thereof the following words:- utility regulation and oversight

SECTION 263. Section 76D of said chapter 164, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "section three of chapter twenty-five" and inserting in place thereof the following words:- section 7 of chapter 6C

SECTION 264. Said chapter 164 of the General Laws, as so appearing, is hereby amended by inserting after section 76D the following section:-

Section 76E. The department shall adopt inspection, maintenance, repair, and replacement standards for the distribution systems of investor-owned electric and gas utilities doing business in the commonwealth no later than January 1, 2008. Said standards, which shall be performance or prescriptive standards, or both, as appropriate, for each substantial type of distribution equipment or facility, shall provide for inspection cycles for all overhead and underground facilities and shall establish a criteria for maintenance and replacement of said facilities to minimize or prevent service interruptions and to ensure high quality, safe and reliable service. In establishing the standards required by this section, the department shall consider cost, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment, and experience. The department shall require each utility to maintain detailed records on its inspection and maintenance activities and to submit annual compliance reports to the department.

The department shall conduct an annual review to determine whether the standards established pursuant to this section have been satisfied. If the department finds that the standards have not been satisfied, the department may order appropriate sanctions, including penalties in the form of rate reductions or monetary fines.

SECTION 265. Said chapter 164, as so appearing, is hereby further amended by striking out section 96 and inserting in place thereof the following:-

Section 96. Companies subject to this chapter and their holding companies may, notwithstanding any other provisions of this chapter or of any general or special law, consolidate or merge with one another, or may sell and convey their properties to another of such companies or to a wholesale generation company and such other company may purchase such properties, provided that such purchase, sale, consolidation or merger, and the terms thereof, have been approved, at meetings called therefor, by vote of the holders of at least two

thirds of each class of stock outstanding and entitled to vote on the question of each of the contracting companies, and that the department, after notice and a public hearing, has determined that such purchase and sale or consolidation or merger, and the terms thereof, are consistent with the public interest; provided, however, that in making such a determination the department shall at a minimum consider: proposed rate changes, if any; the long term strategies that will assure a reliable, cost effective energy delivery system; any anticipated interruptions in service; or other factors which may negatively impact customer service; and provided, further, that the purchase or sale of properties by, or the consolidation or merger of, wholesale generation companies shall not require departmental approval.

SECTION 266. Said chapter 164 of the General Laws, as so appearing, is hereby further amended by inserting after section 105A the following new section:-

Section 105B. Every gas corporation or municipal gas department engaged in the distribution of gas within the commonwealth shall annually conduct a survey of all schools, student quarters, day care centers, kindergartens, pre-schools, churches, hospitals, elder centers, nursing homes, rehabilitation centers, libraries, fire stations, police stations, theatres, arenas, and all public buildings within their service territories by authorized permanent employees of said gas company. Said survey shall include tests for gas leakage and the visual inspection of all accessible gas facilities and gas appliances in the structure. Any gas company which violates any provision of this section shall forfeit a penalty as determined by the department. Penalties incurred under this section shall not be included as expenses in connection with the establishment of rates by said company.

SECTION 267. Said chapter 164, as so appearing, is hereby further amended by striking section 115A and inserting in place thereof the following section:-

Section 115A. Each meter for measuring gas or electricity provided to a consumer by a gas company, an electric company or municipal lighting plant shall, not later than 7 years from the date of installation or replacement, be removed by said company or municipal lighting plant from the premises of the consumer and replaced with such a meter which has been newly tested, sealed and stamped in accordance with law. Effective January 1, 2010, each meter removed by a gas or electric company or municipal lighting plant from the premises of a consumer pursuant to this section shall be replaced with an advanced meter that, without limitation, identifies consumption in more detail

than a conventional meter through automated real-time or near real-time meter reads that tracks on the meter in a format that is understandable to a consumer, energy usage hour-by-hour thereby allowing rates charged by utility companies to reflect different prices for power consumed at different times of the day if appropriate.

Any gas or electric company or municipal lighting plant which violates any provision of this section, unless in the opinion of the department such violation is due to unavoidable cause, accident or lack of materials, shall forfeit 50 dollars for each meter which is not removed and replaced as provided herein. Forfeitures incurred under this section shall not be included as expenses in connection with the establishment of rates by said companies.

The department may promulgate rules and regulations for the administration and enforcement of this section.

SECTION 268. Section 116B of said chapter 164, as so appearing, is hereby amended by inserting at the end thereof the following paragraph:-

Any gas company found by the department to have knowingly violated this section shall be subject to a minimum fine of \$500.00 and a maximum fine of \$1,000.00 for each violation. Penalties and fees incurred under this section shall not be included as expenses in connection with the establishment of rates by said company.

SECTION 269. Said chapter 164, as so appearing, is hereby amended by striking out section 124I and inserting in place thereof the following new sections:-

124I. Each gas company shall upon the termination of service by a customer shut off said service within 30 days after receiving notice of the termination of service by said customer. Said company shall use only authorized permanent employees in complying with this section.

124J. Any company found by the department to have willfully violated sections 124A to 124I, inclusive, shall be assessed a penalty after a hearing by the department, in an amount not to exceed 1,000 dollars. Penalties and fees incurred under said sections 124A through 124I shall not be included as expenses in connection with the establishment of rates by said company.

SECTION 270. Section 134 of chapter 164, as so appearing, is hereby amended by striking out, in line 31, the words “energy resources, pursuant to

section 6 of chapter 25A” and inserting in place thereof the following words:- municipal services, pursuant to section 5 of chapter 6C

SECTION 271. Said section 134 of said chapter 164, as so appearing, is hereby amended by striking out, in line 45, the words "standard offer" and inserting in place thereof the following words:- basic service

SECTION 272. Said section 134 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 49, the words "the standard offer" and inserting in place thereof the following words:- basic service

SECTION 273. Said section 134 of said chapter 164, as so appearing, is hereby further amended by striking out, in lines 51 and 52, the words “division of energy resources pursuant to chapter 25A” and inserting in place thereof the following words:- department of alternative and renewable energy development pursuant to chapter 6C

SECTION 274. Said section 134 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 56, the words "standard offer" and inserting in place thereof the following words:- basic

SECTION 275. Said section 134 of said chapter 164 of the General Laws, as so appearing, is hereby further amended by striking out, in line 64, the words "standard offer" and inserting in place thereof the following words:- basic

SECTION 276. Said section 134 of said chapter 164 of the General Laws, as so appearing, is hereby further amended by striking out, in line 74, the words "standard offer" and inserting in place thereof the following words:- basic

SECTION 277. Said section 134 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 75, the words “division of energy resources” and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 278. Said section 134 of said chapter 164, as so appearing, is hereby amended, in line 85, by striking out the words “25A” and inserting in place thereof the following words:- 6C

SECTION 279. Said chapter 164, as so appearing, is hereby further amended by inserting after section 137 the following section:-

Section 138. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Large Renewable Generation Facility,” a solar-net-metering or wind net-metering facility with a generating capacity of more than 1 megawatt but less than or equal to 2 megawatts.

“Large Renewable Generation Credit”, credit equal to the excess kilowatt hours by time of use billing period, if applicable, multiplied by the distribution company’s default service kilowatt hour charge in the load zone where the customer is located.

“Net metering,” the process of measuring the difference between electricity delivered by an electric distribution company and electricity generated by a solar net-metering or wind net-metering facility and fed back to the distribution company.

“Small renewable Generation Facility,” a solar net-metering or wind net-metering facility that has a generating capacity of 1 megawatt or less.

“Small Renewable Generation Credit”, credit equal to the excess kilowatt hours by time of use billing period, if applicable, multiplied by the sum of the distribution company’s (i) default service kilowatt hour charge in the load zone where the customer is located; (ii) distribution kilowatt hour charge; (iii) transmission kilowatt hours charge; and (iv) transition kilowatt hour charge.

“Solar-net-metering facility,” a facility for the generation of electricity that relies on sunlight, is located on, or in the vicinity of, a customer’s property, and that is intended to offset part or all of that customer’s requirements for electric supply from the distribution company.

“Wind-net-metering facility,” a facility for the generation of electricity that relies on wind, is located on, or in the vicinity of, a customer’s property, and that is intended to offset part or all of that customer’s requirements for electric supply from the distribution company.

(b) A customer of a distribution company who generates electricity from a small renewable energy generation facility may elect net metering and if the electricity generated by the small renewable energy generation facility during a billing period exceeds the customer’s kilowatt-hour usage during the billing period, the customer shall be billed for zero kilowatt-hour usage and the excess small renewable generation credits shall be credited to the customer’s account for the following billing period, provided that the customer may elect to apply any such credits earned at an account to other electric service accounts with the written consent of the other account owners. If the customer’s kilowatt-hour usage exceeds the electricity generated by the small renewable energy generation facility during the billing period, the customer shall be billed for the net kilowatt-hour usage at the applicable rate.

(c) A customer of a distribution company who generates electricity from a large renewable energy generation facility may elect net metering and if the electricity generated by the large renewable energy generation facility during a

billing period exceeds the customer's kilowatt-hour usage during the billing period the customer shall be billed for zero kilowatt-hour usage and the excess large renewable energy generation credits shall be credited to the customer's account. The customer can elect to apply any such credits earned on an account to other electric service accounts with the written consent of the other account owners. If the customer's kilowatt-hour usage exceeds the electricity generated by the large renewable energy generation facility during the billing period, the customer shall be billed for the net kilowatt-hour usage at the applicable rate.

(d) The distribution portion of any small or large renewable energy credits and the distribution portion of any distribution company delivery charges displaced by the small or large generation facility shall be aggregated by the distribution company and billed to all customers on an annual basis through a uniform per kilowatt-hour surcharge or surcharges.

(e) Net metering shall be implemented using a bi-directional meter that registers both the imported and exported electricity flow on an hourly basis.

(f) The aggregate amount of net metering shall not exceed 1% of the distribution company's peak load.

SECTION 280. Section 1 of chapter 164A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 3, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 281. Section 8 of said chapter 164A, as so appearing, is hereby amended by striking out, in lines 72 and 73, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 282. Section 1 of chapter 165 of the General Laws, as appearing in the 2004 Official Edition,, is hereby amended by striking out, in line 7, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 283. Section 28 of said chapter 165, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 284. Section 4 of chapter 166 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 3 and 4, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 285. Section 7 of said chapter 166, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 286. Section 8 of said chapter 166, as so appearing, is hereby amended by striking out, in line 9, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 287. Section 11 of said chapter 166, as so appearing, is hereby amended by striking out, in line 3, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 288. Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking out, in line 64, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 289. Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking out, in line 67 and 68, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 290. Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking out, in line 74, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 291. Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking out, in line 128, the words "telecommunications and energy " and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 292. Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking out, in line 134, the words

"telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 293. Section 22A of said chapter 166, as so appearing, is hereby amended by striking out, in line 5, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 294. Section 22L of said chapter 166, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 295. Section 25A of said chapter 166, as so appearing, is hereby amended by striking out, in line 28, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 296. Section 27 of said chapter 166, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 297. Section 44 of said chapter 166, as so appearing, is hereby amended by striking out, in line 11, the words " telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 298. Said section 44 of said chapter 166, as so appearing, is hereby further amended by striking out, in line 25, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 299. Chapter 166A of the General Laws is hereby repealed.

SECTION 300. Section 5 of chapter 167B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 76 and 77, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 301. Section 20 of said chapter 167B, as so appearing, is hereby further amended by striking out, in lines 54 and 55, the words "telecommunications and energy" and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 302. Section 1 of chapter 182 of the General Laws, as appearing in the 2004 Official Edition,, is hereby amended by striking out, in lines 6 and 7, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 303. Section 32 of chapter 184 of the General Laws, as appearing in the 2004 Official Edition,, is hereby amended by striking out, in lines 95 and 96, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 304. Section 5 of chapter 187 of the General Laws, as appearing in the 2004 Official Edition,, is hereby amended by striking out, in line 17, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 305. Said section 5 of said chapter 187, as so appearing, is hereby further amended by striking out, in line 23, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 306. Section 76 of chapter 233 of the General Laws, as appearing in the 2004 Official Edition,, is hereby amended by striking out, in line 6, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 307. Section 34 of chapter 262 of the General Laws, as appearing in the 2004 Official Edition,, is hereby amended by striking out, in line 55, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 308. Said section 34 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 59, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 309. Said section 34 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 66, the words

"telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 310. Said section 34 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 70, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 311. Section 44 of said chapter 262, as so appearing, is hereby amended by striking out, in line 1, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 312. Section 120D of chapter 266 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 41, the words "telecommunications and energy" and inserting in place thereof the following words:- transportation oversight

SECTION 313. Section 6 of chapter 268 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 3, the words "telecommunications and energy," and inserting in place thereof the following words:- alternative and renewable energy development, the department of broadband, cable television and telecommunications, the department of utility regulation and oversight,

SECTION 314. Section 33 of said chapter 268, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 315. Chapter 268A of the General Laws is hereby amended by striking section 8B and inserting thereof the following section:-

Section 8B. No member or employee of the executive office of energy affairs established pursuant to chapter 6C shall, within one year after his service has ceased or terminated, be employed by, or lobby said office on behalf of, any company or regulated industry over which said office had jurisdiction during the tenure of such member of the office.

SECTION 316. Section 17B of chapter 271 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 3 and 4, the words "telecommunications and energy" and inserting in place

thereof the following words:- broadband, cable television and telecommunications

SECTION 317. Section 25 of chapter 796 of the Acts of 1979 is hereby amended by striking out, in line 3, the words "executive office of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy

SECTION 318. Said section 25 of said chapter 796, as so appearing, is hereby further amended by striking out, in line 10, the words "executive office" and inserting in place thereof the following word:- department

SECTION 319. Said section 25 of said chapter 796, as so appearing, is hereby further amended by striking out, in line 23, the words "executive office" and inserting in place thereof the following word:- department

SECTION 320. Section 28 of said chapter 796, as so appearing, is hereby amended by striking out, in line 2, the word "secretary" and inserting in place thereof the following word:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 321. Said section 28 of said chapter 796, as so appearing, is hereby amended by striking out, in line 8, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 322. Said section 28 of said chapter 796, as so appearing, is hereby amended by striking out, in line 12, the word "secretary" and inserting in place thereof the following word:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 323. Section 29 of said chapter 796, as so appearing, is hereby amended by striking out, in lines 4-5, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 324. Section 32 of said chapter 796, as so appearing, is hereby amended by striking out, in line 3, the words "executive office of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 325. Section 33 of said chapter 796, as so appearing, is hereby amended by striking out, in line 1, the words "department of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 326. Said section 33 of said chapter 796, as so appearing, is hereby amended by striking out, in line 6, the words "department of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 327. Section 1 of chapter 465 of the Acts of 1980, as most recently amended by section 44 of chapter 730 of the Acts of 1989, is hereby amended by striking out, in its entirety, the definition of "Commissioner"

SECTION 328. Said section 1 of said chapter 465, as so appearing, is hereby further amended by inserting after the definition of "State plan" the following definition:-

"Undersecretary", the undersecretary of alternative and renewable energy development.

SECTION 329. Said section 1 of said chapter 465, as so appearing, is hereby further amended by striking out, in lines 50 and 51, the words "executive office of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 330. Section 3 of said chapter 465, as so appearing, is hereby amended by striking out, in line 1, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 331. Said section 3 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 41, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 332. Said section 3 of said chapter 465, as so appearing, is hereby further amended by striking out, in lines 54 and 55, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 333. Said section 3 of said chapter 465, as so appearing, is hereby further amended by striking out, in lines 57 and 58, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 334. Said section 3 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 64, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 335. Said section 3 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 89, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 336. Section 4 of said chapter 465, as so appearing, is hereby amended by striking out, in line 2, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 337. Section 6 of said chapter 465, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 338. Said section 6 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 5, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 339. Said section 6 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 13, the word "secretary" and inserting in place thereof the following word:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 340. Said section 6 of said chapter 465, as so appearing, is hereby further amended by striking out, in lines 16 and 17, the words "secretary

of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 341. Said section 6 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 17, the word "secretary" and inserting in place thereof the following word:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 342. Said section 6 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 21, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 343. Said section 6 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 25, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 344. Said section 6 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 26, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 345. Said section 6 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 31, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 346. Section 7 of said chapter 465, as so appearing, is hereby further amended by striking out, in lines 31 and 32, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 347. Said section 7 of said chapter 465, as so appearing, is hereby further amended by striking out, in lines 32 and 33, the words "secretary of energy resources" and inserting in place thereof the following words:-

undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 348. Said section 7 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 50, the words "executive office of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 349. Said section 7 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 66, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 350. Said section 7 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 69, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 351. Said section 7 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 118, the words "executive office of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 352. Said section 7 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 125, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 353. Said section 7 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 132, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 354. Section 8 of said chapter 465, as so appearing, is hereby amended by striking out, in line 11, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 355. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 28, the words "executive office of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 356. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in lines 29 and 30, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 357. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in lines 31 and 32, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 358. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 41, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 359. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 44, the words "executive office of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 360. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 48, the words "executive office of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 361. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in lines 55 and 56, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 362. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in lines 59 and 60, the words "secretary of energy resources" and inserting in place thereof the following words:-

undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 363. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 63, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 364. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 68, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 365. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 70, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 366. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in line 71, the word "secretary" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 367. Said section 8 of said chapter 465, as so appearing, is hereby further amended by striking out, in lines 72 and 73, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 368. Section 9 of said chapter 465, as so appearing, is hereby amended by striking out, in line 1, the words "executive office of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 369. Section 12 of chapter 637 of the Acts of 1985 is hereby amended by striking out, in line 1, the words "executive office of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 370. Section 2 of chapter 489 of the Acts of 1986, as amended by section 64 of chapter 730 of the Acts of 1989, is hereby amended by striking out, in lines 1 and 2, the words "executive office of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 371. Section 3 of said chapter 489, as amended by section 65 of chapter 730 of the Acts of 1989, is hereby amended by striking out, in its entirety, the definition of "Commissioner"

SECTION 372. Said section 3 of said chapter 489, as so appearing, is hereby further amended by inserting after the definition of "State plumbing code" the following definition:-

"Undersecretary", the undersecretary of alternative and renewable energy development.

SECTION 373. Said section 3 of said chapter 489, as amended by section 67 of chapter 730 of the Acts of 1989, is hereby further amended by striking out, in line 74, the word "secretary" and inserting in place thereof the following word:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 374. Said section 3 of said chapter 489, as so appearing, is hereby further amended by striking out, in line 77, the word "secretary" and inserting in place thereof the following word:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 375. Section 1 of Chapter 670 of the Acts of 1987, as amended by section 68 of chapter 730 of the Acts of 1989, is hereby amended by striking out, in line 6, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 376. Said section 1 of said chapter 670, as so appearing, is hereby further amended by striking out, in lines 11 and 12, the words "secretary of energy resources" and inserting in place thereof the following words:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 377. Said section 1 of said chapter 670, as so appearing, is hereby further amended by striking out, in line 14, the word "secretary" and

inserting in place thereof the following word:- undersecretary of the executive office of energy affairs for alternative and renewable energy development

SECTION 378. Section 68 of chapter 164 of the Acts of 1997 is hereby amended by striking out, in lines 8 and 9, the words "section 20 of chapter 25" and inserting in place thereof the following words: section 12 of chapter 6C

SECTION 379. Section 291 of said chapter 164, as so appearing, is hereby amended by striking out, in line 4, the words "section 2 of chapter 25" and inserting in place thereof the following words: section 59 of chapter 6C

SECTION 380. Section 305 of said chapter 164 is hereby amended by striking, in line 2, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 381. Section 307 of said chapter 164, as so appearing, is hereby amended by striking, in lines 4 and 5, the words "department of telecommunications and energy" and inserting in place thereof the following words:- executive office of energy affairs

SECTION 382. Section 308 of said chapter 164, as so appearing, is hereby amended by striking, in line 5, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 383. Section 309 of said chapter 164, as so appearing, is hereby amended by striking, in lines 2 and 3, the words "department of telecommunications and energy, the division of energy resources," and inserting in place thereof the following words:- executive office of energy affairs

SECTION 384. Section 311 of said chapter 164, as so appearing, is hereby amended by striking, in lines 31 and 32, the words "chairman of the department of telecommunications and energy" and inserting in place thereof the following words:- secretary of the executive office of energy affairs

SECTION 385. Said section 311 of said chapter 164, as so appearing, is hereby further amended by striking, in line 35, the words "chairman of the department of telecommunications and energy" and inserting in place thereof the following words:- secretary of the executive office of energy affairs

SECTION 386. Section 312 of said chapter 164, as so appearing, is hereby amended by striking, in lines 2 and 3, the words “department of telecommunications and energy, in conjunction with the division of energy resources” and inserting in place thereof the following words:- the executive office of energy affairs

SECTION 387. Said section 312 of said chapter 164, as so appearing, is hereby further amended by striking, in line 3 of the first paragraph, the words “division of energy resources” and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 388. Section 314 of said chapter 164, as so appearing, is hereby amended by striking, in line 2 of the first paragraph, the words “telecommunications and energy” and inserting in place thereof the following words:- utility regulation and oversight

SECTION 389. Section 314 of said chapter 164, as so appearing, is hereby amended by striking out, in line 5, the words "section 5D of chapter 25" and inserting in place thereof the following words: section 66 of chapter 6C

SECTION 390. Section 314 of said chapter 164, as so appearing, is hereby further amended by striking out, in lines 7 and 8, the words "section 5D of said chapter 25" and inserting in place thereof the following words: section 66 of said chapter 6C

SECTION 391. Section 316 of said chapter 164, as so appearing, is hereby amended by striking, in lines 2 through 4, inclusive, the words “the chairman of the department of telecommunications and energy is hereby authorized and directed, in conjunction with the commissioner of the community antenna television commission established pursuant to chapter 166A of the General Laws, and inserting in place thereof the following words:- the secretary of the executive office of energy affairs is hereby authorized and directed

SECTION 392. Section 318 of said chapter 164, as so appearing, is hereby amended by striking, in line 16, the words “division of energy resources” and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 393. Said section 318 of said chapter 164, as so appearing, is hereby further amended by striking, in line 37, the words “division of energy resources” and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 394. Section 319 of said chapter 164, as so appearing, is hereby amended by striking, in lines 2 and 3, the words “department of telecommunications and energy and the division of energy resources” and inserting in place thereof the following words:- executive office of energy affairs

SECTION 395. Section 320 of said chapter 164, as so appearing, is hereby amended by striking out, in line 1, the words "166A" and inserting in place thereof the following words: 6C

SECTION 396. Said section 320 of said chapter 164, as so appearing, is hereby further amended by striking, in lines 4 and 5, the words “department of telecommunications and energy” and inserting in place thereof the following words:- executive office of energy affairs

SECTION 397. Section 321 of said chapter 164, as so appearing, is hereby amended by striking, in line 3, the words “telecommunications and energy” and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 398. Said section 321 of said chapter 164, as so appearing, is hereby further amended by striking, in line 6, the words “telecommunications and energy” and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 399. Section 321 of said chapter 164, as so appearing, is hereby amended by striking out, in line 13, the words "section 2 of said chapter 166A" and inserting in place thereof the following words:- section 34 of chapter 6C

SECTION 400. Said section 321 of said chapter 164, as so appearing, is hereby further amended by striking, in line 19, the words “telecommunications and energy” and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 401. Section 322 of said chapter 164, as so appearing, is hereby amended by striking, in line 6 of the first paragraph, the words “telecommunications and energy” and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 402. Section 323 of said chapter 164, as so appearing, is hereby amended by striking, in line 5, the words “telecommunications and energy” and

inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 403. Section 324 of said chapter 164, as so appearing, is hereby amended by striking, in line 4 of the first paragraph, the words “telecommunications and energy” and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 404. Section 325 of said chapter 164, as so appearing, is hereby amended by striking, in line 4 of the first paragraph, the words “telecommunications and energy” and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 405. Section 326 of said chapter 164, as so appearing, is hereby amended by striking, in lines 4 and 5 of the first paragraph, the words “telecommunications and energy” and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 406. Section 327 of said chapter 164, as so appearing, is hereby amended by striking, in line 4 of the first paragraph, the words “telecommunications and energy” and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 407. Section 328 of said chapter 164, as so appearing, is hereby amended by striking, in line 4, the words “commissioners of the department of telecommunications and energy” and inserting in place thereof the following words:- public utility commission established pursuant to section 59 of chapter 6C

SECTION 408. Section 329 of said chapter 164, as so appearing, is hereby amended by striking, in line 5 of the first paragraph, the words “telecommunications and energy” and inserting in place thereof the following words:- broadband, cable television and telecommunications

SECTION 409. Section 330 of said chapter 164, as so appearing, is hereby amended by striking, in line 3 of the first paragraph, the words “division of energy resources” and inserting in place thereof the following words:- executive office of energy affairs

SECTION 410. Section 331 of said chapter 164, as so appearing, is hereby amended by striking out, in line 28, the words "section 11C of chapter 25A" and inserting in place thereof the following words:- section 28 of chapter 6C

SECTION 411. Section 331 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 31, the words "11C" and inserting in place thereof the following words: 28

SECTION 412. Section 332 of said chapter 164, as so appearing, is hereby amended by striking, in line 1 of the first paragraph, the words "division of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 413. Section 332 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 3, the words "11F of chapter 25A" and inserting in place thereof the following words: 20 of chapter 6C

SECTION 414. Section 333 of said chapter 164, as so appearing, is hereby further amended by striking, in line 1, the words "division of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 415. Section 333 of said chapter 164, as so appearing, is hereby further amended by striking, in lines 7 and 8, the words "commissioner, or unless the building has a heat pump that meets energy-efficiency standards established by the commissioner," and inserting in place thereof the following words:- undersecretary, or unless the building has a heat pump that meets energy-efficiency standards established by the undersecretary,

SECTION 416. Section 333 of said chapter 164, as so appearing, is hereby further amended by striking, in lines 10 and 11 of the first paragraph, the words "commissioner of energy resources" and inserting in place thereof the following words:- undersecretary for alternative and renewable energy development

SECTION 417. Section 333 of said chapter 164, as so appearing, is hereby further amended by striking, in lines 18 and 19 of the first paragraph, the words "division of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy development

SECTION 418. Section 334 of said chapter 164, as so appearing, is hereby amended by striking, in lines 15 and 16, the words "; a member of the commission of the department of telecommunications and energy to be appointed by the commission; the commissioner of the division of energy resources;" and inserting in place thereof the following words:- the secretary of the executive office of energy affairs; the undersecretary of energy resources for alternative and renewable energy development;

SECTION 419. Said section 334 of said chapter 164, as so appearing, is hereby further amended by striking, in line 17 of the first paragraph, the words “the commissioner of the division of energy resources;”

SECTION 420. Section 335 of said chapter 164, as so appearing, is hereby amended by striking, in line 6, the words “department of telecommunications and energy” and inserting in place thereof the following words:- executive office of energy affairs

SECTION 421. Section 337 of said chapter 164, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "2 of chapter 25" and inserting in place thereof the following words: 59 of chapter 6C

SECTION 422. Section 337 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 5, the word "2" and inserting in place thereof the following words: 59

SECTION 423. Section 339 of said chapter 164, as so appearing, is hereby amended by striking, in lines 2 and 3, the words “department of telecommunications and energy and the division of energy resources” and inserting in place thereof the following words:- executive office of energy affairs

SECTION 424. Section 340 of said chapter 164, as so appearing, is hereby amended by striking, in line 11 of the first paragraph, the words “a commissioner of the department of telecommunications and energy” and inserting in place thereof the following words:- the secretary of the executive office of energy affairs

SECTION 425. Section 194 of chapter 463 of the Acts of 1998 is hereby amended by striking out, in lines 3 and 4, the words "the chairman of the department of telecommunications and energy" and inserting in place thereof the following words:- the secretary of the executive office of energy affairs

SECTION 426. Section 194 of chapter 463 of the Acts of 1998 is hereby further amended by striking out, in line 6, the word "166A" and inserting in place thereof the following words:- 6C

SECTION 427. Section 183 of chapter 26 of the Acts of 2003 is hereby amended by striking out, in line 30, the words "20 of chapter 25" and inserting in place thereof the following words:- 12 of chapter 6C

SECTION 428. Section 183 of said chapter 26, as so appearing, is hereby further amended by striking out, in line 36, the words "20" and inserting in place thereof the following words:- 12

SECTION 429. Section 183 of chapter 26, as so appearing, is hereby further amended by striking out, in line 38, the words "20" and inserting in place thereof the following words:- 12

SECTION 430. Section 183 of chapter 26, as so appearing, is hereby further amended by striking out, in line 42, the words "20" and inserting in place thereof the following words:- 12

SECTION 431. Section 11 of chapter 193 of the Acts of 2004 is hereby amended by striking out, in lines 53 and 54, the words "11C of chapter 25A" and inserting in place thereof the following words:- 28 of chapter 6C

SECTION 432. Section 17 of chapter 140 of the Acts of 2005 is hereby amended by striking out, in lines 1 and 2, the words "telecommunications and energy" and inserting in place thereof the following words:- utility regulation and oversight

SECTION 433. Section 18 of chapter 140 of the Acts of 2005 is hereby amended by striking out, in line 2, the words "division of energy resources" and inserting in place thereof the following words:- department of alternative and renewable energy

SECTION 434. Section 22 of said chapter 140 is hereby amended by striking out, in lines 2 and 3, the words "11C of chapter 25" and inserting in place thereof the following words:- 28 of chapter 6C

SECTION 435. Section 23 of said chapter 140 is hereby amended by striking out, in line 3, the words "subsection (a) of section 11C of chapter 25" and inserting in place thereof the following words:- section 28 of chapter 6C

SECTION 436. Said chapter 140 is hereby amended by striking out section 23A and inserting in place thereof the following section:-

Section 23A. The undersecretary of alternative and renewable energy shall establish a pilot program, hereinafter referred to as the HEAT Loan Program, to assist consumers with the purchase of energy efficient items for residential home modifications. For the purposes of this program, energy efficient items shall

include home insulation, new window installation, advanced programmable thermostats, fuel efficient furnaces, boilers, oil, gas, propane, or electric heating systems, solar domestic or fuel efficient hot water systems, materials for insulation or sealing of a duct, attic, basement, rim joint or wall and pipe insulation for heating systems or other retail items for use in a residential dwelling that increase the energy efficiency of said dwelling.

In establishing the program, the undersecretary shall develop a list of qualified state or federally chartered banking institutions or credit unions that do business in the commonwealth and that are governed by chapter 167 or 171 of the General Laws as participatory lending institutions. For the purposes of this section, a qualified lending institution shall include a lending institution, as described herein that is certified by the executive office and which shall offer zero and low interest loans for the purpose of enhancing the energy efficiency of a residential dwelling. The program shall be funded from that portion of the mandatory charge that is authorized by this section and allocated to residential customers consistent with section 11 of chapter 6C of the General Laws, provided, however, that not less than \$5,000,000 shall be made available to assist participating financial institutions in offering said loan products by or through interest rate write downs or other credit enhancement features, and provided further, that loans offered pursuant to the program shall be offered to residential homeowners in the commonwealth solely for the purposes stated herein. The department shall make such loans available for purchases made on or after January 1, 2006, but not later than December 31, 2006. The department shall establish the rules and guidelines to carry out the purposes of this section, including, but not limited to, establishing applicant criteria, application forms and procedures, and energy efficiency product requirements and lending institution tracking and reporting requirements. The department shall submit a report detailing the rules and guidelines to the joint committee on telecommunications, utilities and energy no later than January 1, 2006. The department shall submit a report detailing the program results no later than February 1, 2007 to the joint committee on telecommunications, utilities and energy and the house and senate committees on ways and means.

SECTION 437. Section 115 of chapter 123 of the Acts of 2006 is hereby amended by striking out the definition of “department” and inserting in place thereof the following words:- “Department”, the department of broadband, cable television and telecommunications established pursuant to section 32 of chapter 6C

SECTION 438. Notwithstanding any general or special law to the contrary, the functions, rights, powers, duties, obligations and properties of the department of telecommunications and energy, exclusive of the transportation

division of said department, the division of energy resources, the Massachusetts Renewable Energy Trust, and the division of community antenna television abolished by sections 35, 36, 76 and 299 of this act, respectively, are hereby transferred to and shall be exercised, performed and held by the executive office of energy affairs established pursuant to chapter 6C of the General Laws.

SECTION 439. Notwithstanding any general or special law to the contrary, the functions, rights, powers, duties, obligations and properties of the of the transportation division of the department of telecommunications and energy abolished by section 35 of this act are hereby transferred to and shall be exercised, performed and held by the department of transportation oversight within the executive office of transportation and construction established pursuant to chapter 6A of the General Laws.

SECTION 440. Notwithstanding any general or special law to the contrary, all employees of any department, office, commission, committee, council, board, division, bureau, section, administrative unit or other agency transferred by this act to the executive office of executive office of energy affairs who immediately prior to the effective date of this act, either hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions by reason of section 9A of chapter 30 of the General Laws, are hereby transferred to the executive office of energy affairs, or any such agency thereof, every such transfer to be without impairment of civil service status, seniority, retirement or other rights of the employee and without interruption of service within the meaning of chapter 31 or said section 9A and without reduction in compensation or salary grade notwithstanding any change in title or duties resulting from such transfer, subject to the provisions of chapter 31 and the rules and regulations adopted thereunder.

All employees of any such department, office, commission, committee, council, board, division, bureau, section, administrative unit or other agency who, immediately prior to said effective date, neither hold permanent appointment in such positions nor have such tenure, are hereby transferred to the executive office of energy affairs or to any such agency thereof, every such transfer to be without impairment of seniority, retirement or other rights of such employees, and without interruption of service within the meaning of section 9A of chapter 30 and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such transfer.

Nothing in this section shall be construed to confer upon any employee any rights not held immediately prior to the effective date of this act or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited prior to said effective date.

SECTION 441. Notwithstanding any general or special law to the contrary, all employees of any department, office, commission, committee, council, board, division, bureau, section, administrative unit or other agency transferred by this act to the department of transportation oversight within the executive office of transportation and construction who immediately prior to the effective date of this act, either hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions by reason of section 9A of chapter 30 of the General Laws, are hereby transferred to the department of transportation oversight within the executive office of transportation and construction, or any such agency thereof, every such transfer to be without impairment of civil service status, seniority, retirement or other rights of the employee and without interruption of service within the meaning of chapter 31 or said section 9A and without reduction in compensation or salary grade notwithstanding any change in title or duties resulting from such transfer, subject to the provisions of chapter 31 and the rules and regulations adopted thereunder.

All employees of any such department, office, commission, committee, council, board, division, bureau, section, administrative unit or other agency who, immediately prior to said effective date, neither hold permanent appointment in such positions nor have such tenure, are hereby transferred to the executive office of transportation and construction or to any such agency thereof, every such transfer to be without impairment of seniority, retirement or other rights of such employees, and without interruption of service within the meaning of section 9A of chapter 30 and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such transfer.

Nothing in this section shall be construed to confer upon any employee any rights not held immediately prior to the effective date of this act or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited prior to said effective date.

SECTION 442. Notwithstanding any general or special law to the contrary, all petitions, hearings and other proceedings duly brought before, and all prosecutions and legal and other proceedings duly begun by any department, office, commission, committee, council, board, division, bureau, section, officer, administrative unit, trust or other agency transferred by this act to the executive office of energy affairs, or any such agency thereof, which are pending immediately prior to the effective date of this act, shall continue unabated and remain in force notwithstanding the passage of this act, and shall thereafter be completed before or by said executive office or the appropriate agency thereof,

as the case may be.

All orders, rules and regulations duly made, and all licenses, permits, certificates and approvals duly granted, by any department, office, commission, committee, council, board, division, bureau, section, officer, administrative unit, trust or other agency transferred by this act to the executive office of energy affairs, or any such agency thereof, which are pending immediately prior to the effective date of this act, shall continue in force and the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded or cancelled in accordance with law, by the department, division or other appropriate agency within said executive office or said executive office, as the case may be.

All questions regarding the identification of such petitions, hearings, prosecutions, proceedings, orders, rules, regulations, licenses, permits, certificates and approvals, and of the agencies to which the completion of enforcement thereof is so transferred, shall be determined by the secretary of the executive office of energy affairs.

SECTION 443. Notwithstanding any general or special law to the contrary, all petitions, hearings and other proceedings duly brought before, and all prosecutions and legal and other proceedings duly begun by any department, office, commission, committee, council, board, division, bureau, section, officer, administrative unit or other agency transferred by this act to the department of transportation oversight within the executive office of transportation and construction, or any such agency thereof, which are pending immediately prior to the effective date of this act, shall continue unabated and remain in force notwithstanding the passage of this act, and shall thereafter be completed before or by said executive office or the appropriate agency thereof, as the case may be.

All orders, rules and regulations duly made, and all licenses, permits, certificates and approvals duly granted, by any department, office, commission, committee, council, board, division, bureau, section, officer, administrative unit or other agency transferred by this act to the department of transportation oversight within the executive office of transportation and construction, or any such agency thereof, which are pending immediately prior to the effective date of this act, shall continue in force and the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded or cancelled in accordance with law, by the department, division or other appropriate agency within said department of transportation oversight, as the case may be.

All questions regarding the identification of such petitions, hearings, prosecutions, proceedings, orders, rules, regulations, licenses, permits, certificates and approvals, and of the agencies to which the completion of

enforcement thereof is so transferred, shall be determined by the director of the department of transportation oversight.

SECTION 444. Notwithstanding any general or special law to the contrary, all books, papers, records, property, documents, equipment, lands, interests in land, buildings, facilities and other property, both personal and real, which immediately prior to the effective date of this act, are in custody of any department, office, commission, committee, council, board, division, bureau, section, administrative unit, trust or other agency transferred by this act to the executive office of energy affairs, or any such agency thereof, are hereby transferred to the appropriate agency, that all such property held in trust shall continue to be held in trust by the appropriate agency, or if such agency shall decline such trust, by the trustee appointed by the secretary of energy affairs.

All questions regarding the identification of such property and of the agencies to which custody thereof is transferred shall be determined by the secretary of energy affairs.

SECTION 445. Notwithstanding any general or special law to the contrary, all books, papers, records, property, documents, equipment, lands, interests in land, buildings, facilities and other property, both personal and real, which immediately prior to the effective date of this act, are in custody of any department, office, commission, committee, council, board, division, bureau, section, administrative unit, trust or other agency transferred by this act to the department of transportation oversight within the executive office of transportation and construction, or any such agency thereof, are hereby transferred to the appropriate agency, that all such property held in trust shall continue to be held in trust by the appropriate agency, or if such agency shall decline such trust, by the trustee appointed by the secretary of transportation and construction.

All questions regarding the identification of such property and of the agencies to which custody thereof is transferred shall be determined by the director of the department of transportation oversight.

SECTION 446. Notwithstanding any general or special law to the contrary, all duly existing contracts, leases and obligations of any department, office, commission, committee, council, board, division, bureau, officer, section, administrative unit, trust or other agency transferred by this act to the executive office of energy affairs, or any such agency thereof, which are in force immediately prior to the effective date of this act, shall thereafter be performed by the department, the appropriate agency within the executive office, or the executive office as the case may be. No existing right or remedy of any character shall be lost, impaired or affected by the provisions of this act.

SECTION 447. Notwithstanding any general or special law to the contrary, all duly existing contracts, leases and obligations of any department, office, commission, committee, council, board, division, bureau, officer, section, administrative unit or other agency transferred by this act to the department of transportation oversight within the executive office of transportation and construction, or any such agency thereof, which are in force immediately prior to the effective date of this act, shall thereafter be performed by the department. No existing right or remedy of any character shall be lost, impaired or affected by the provisions of this act.

SECTION 448. Notwithstanding any general or special law to the contrary, all monies heretofore appropriated or collected for any department, office, commission, committee, council, board, division, bureau, section, administrative unit, trust, officer or other agency transferred by this act to the executive office of energy affairs, or any such agency thereof, remaining unexpended on the effective date of this act, are hereby transferred to said executive office and shall be available for expenditure by executive office or the appropriate agency thereof for the purposes for which such funds were originally appropriated.

All questions regarding the identification of such monies and of the agencies to which they are so transferred shall be determined by the secretary of administration and finance.

SECTION 449. Notwithstanding any general or special law to the contrary, all monies heretofore appropriated for any department, office, commission, committee, council, board, division, bureau, section, administrative unit, officer or other agency transferred by this act to the department of transportation oversight within the executive office of transportation and construction, or any such agency thereof, remaining unexpended on the effective date of this act, are hereby transferred to said department of transportation oversight and shall be available for expenditure by department or the appropriate agency thereof for the purposes for which such funds were originally appropriated.

All questions regarding the identification of such monies and of the agencies to which they are so transferred shall be determined by the secretary of administration and finance.

SECTION 450. Notwithstanding any general or special law to the contrary, wherever in any special or general law or in any rule or regulation there is provided a right of appeal to any department, office, commission, committee, council, board, division, bureau, section, administrative unit, or officer of other agency transferred by this act to the executive office of energy affairs, or any such agency thereof, a right of appeal to the appropriate agency within the executive office, or to the executive office as the case may be, shall exist and such appeal shall be made pursuant to the provisions of any applicable law, rule

or regulation or amendments thereto or, in the absence of such applicable law, rule or regulation, pursuant to chapter 30A of the General Laws.

SECTION 451. Notwithstanding any general or special law to the contrary, wherever in any special or general law or in any rule or regulation there is provided a right of appeal to any department, office, commission, committee, council, board, division, bureau, section, administrative unit, trust, officer or other agency transferred by this act to the department of transportation oversight within the executive office of transportation and construction, or any such agency thereof, a right of appeal to the appropriate agency within the executive office, or to the executive office as the case may be, shall exist and such appeal shall be made pursuant to the provisions of any applicable law, rule or regulation or amendments thereto or, in the absence of such applicable law, rule or regulation, pursuant to chapter 30A of the General Laws.

SECTION 452. Notwithstanding any general or special law to the contrary, wherever the name of any department, office, committee, commission, council, board, division, bureau, section, administrative unit or agency transferred by this act or the name of any agency which is abolished by this act the functions of which are transferred to the executive office of energy affairs, or any such agency thereof, appears in any general or special law, or in any order, rule, regulation or other document, such name shall mean and shall be construed as referring to the executive office or the appropriate agency thereof, as the case may be.

SECTION 453. Notwithstanding any general or special law to the contrary, wherever the name of any department, office, committee, commission, council, board, division, bureau, section, administrative unit or agency transferred by this act or the name of any agency which is abolished by this act the functions of which are transferred to the department of transportation oversight within the executive office of transportation and construction, or any such agency thereof, appears in any general or special law, or in any order, rule, regulation or other document, such name shall mean and shall be construed as referring to the executive office or the appropriate agency thereof, as the case may be.

SECTION 454. Notwithstanding any general or special law to the contrary, all powers, duties and other statutory provisions which, prior to the effective date of this act, were assigned to, or exercised by, any department, office, commission, committee, council, board, division, bureau, section, administrative unit, officer, trust or other agency transferred by this act to the executive office of energy affairs, or any such agency thereof, shall continue to be exercised and performed by, and to be assigned to the appropriate agency or officer within the executive office or any such agency thereof except as such powers, duties or

other statutory provisions are modified by this act.

SECTION 455. Notwithstanding any general or special law to the contrary, all powers, duties and other statutory provisions which, prior to the effective date of this act, were assigned to, or exercised by, any department, office, commission, committee, council, board, division, bureau, section, administrative unit, officer, or other agency transferred by this act to the department of transportation oversight within the executive office of transportation and construction, or any such agency thereof, shall continue to be exercised and performed by, and to be assigned to the appropriate agency or officer within the department or any such agency thereof except as such powers, duties or other statutory provisions are modified by this act.

SECTION 456. Notwithstanding any general or special law to the contrary, the secretary of the executive office of energy affairs shall make recommendations regarding what supplemental state funds, if any, shall be expended for the federal Low Income Home Energy Assistance Program, pursuant to 42 U.S.C. Section 8621 et seq., for the purpose of assisting low-income elders, working families and other households with the purchase of heating oil, propane, natural gas and electricity and other primary or secondary heating sources; provided, however, that any recommended expenditures of these supplemental funds shall be made in accordance with the state plan submitted by the department of housing and community development in accordance with said federal program. The recommendations shall include recommended funding levels and funding sources. The secretary of the executive office of energy affairs shall submit the plan to the joint committee on telecommunications, utilities and energy not later than October 1, 2007.

SECTION 457. Notwithstanding any general or special law to the contrary, there is hereby established a commission which shall study the siting of energy facilities in the commonwealth. Said study shall include, but not be limited to, the following: (i) the development of a procedure for coordinating and consolidating applications to construct generating facilities between and among the energy facilities siting board, the department of environmental protection, and other appropriate agencies, to enable one-stop shopping, so-called, for necessary permits or certificates or other appropriate streamlining of the permitting system; (ii) the expansion of such coordinated procedures to other energy facilities, if appropriate; (iii) possible changes to the energy facilities siting board's procedures for reviewing electric and gas transmission lines in light of recent and proposed changes in the structure and regulation of the electric and gas industries, including regional approaches to the siting of such facilities; (iv) clarification of the energy facilities siting board's jurisdiction over the repowering of existing generating facilities at existing sites and the appropriate standards for reviewing such repowerings; (v) the development of

coordinated procedures to encourage the reuse of existing industrial sites for the development of generating facilities; (vi) the issue of application fees paid by developers to the energy facilities siting board and the correlation of such fees to the board's procedures, as statutorily revised pursuant to this act, in reviewing such applications; provided, that said study shall include, but not be limited to, recommendations, if any, on reducing the application fee paid by developers to the board in light of the board's statutorily revised standards of review of such applications pursuant to the provisions of this act; (vii) the establishment of a site characterization and suitability commission within the department of environmental protection, which would promulgate criteria to be applied to sites included in an application before the energy facilities siting board and rule on suitability of a proposed site as before said application is approved; and (viii) the possibility of requiring applicants to provide either (a) evidence that the proposed facility would employ the best available and most efficient technology to control and reduce water withdrawals, or (b) a description of the environmental impacts, costs, and reliability of the water withdrawal method chosen and an explanation of why the proposed technology was chosen.

Said study commission shall consist of the following members: the secretary of the executive office of energy affairs, or his designee, who shall serve as the chairman of said study commission; the commissioner of the department of environmental protection, or his designee; a member of the energy facilities siting board other than the secretary of energy affairs, who shall be selected to serve on said commission by the governor; the house and senate chairmen of the joint committee on telecommunications, utilities and energy; the house and senate chairmen of the joint committee economic development and emerging technologies; and 10 members to be appointed by the governor, 1 of whom shall be a representative of the Massachusetts municipal association, 1 of whom shall be a representative of the Massachusetts association of health boards, 2 of whom shall be a representative of an environmental protection organization, 2 of whom shall be representatives of the electric industry, including one member of the electric generation industry and one member representing an electric utility, 1 of whom shall be a representative of the gas industry, 1 of whom shall represent residential ratepayers, and 2 of whom shall be recommended by the Massachusetts AFL-CIO. Said study commission shall issue a final report, which shall include the results of its review and analysis, to the joint committees on telecommunications, utilities and energy, the joint committee on economic development and emerging technologies, respectively, and the house and senate committees on ways and means on or before July 1, 2008.

SECTION 458. (a) Notwithstanding any general or special law to the contrary, each electric and gas company in the commonwealth shall provide to

the secretary of the executive office of energy affairs, a progress report detailing the status of the arrearage management programs for eligible low-income customers, pursuant to chapter 164 of the General Laws. Each electric and gas company shall provide said progress report to the secretary no later than April 1, 2007. The secretary shall review and approve each progress report with such modifications as the secretary deems appropriate, no later than September 1, 2007. The secretary shall continue to conduct an annual review of such programs and may at any time order such revisions or modifications as the secretary deems appropriate. For purposes of this section, an arrearage management program shall include a plan under which companies work with eligible low-income customers to establish affordable payment plans and provide credits to those customers toward the accumulated arrears where such customers comply with the terms of the program.

(b) The secretary shall require a company that initially offers a low income customer who has an arrearage, but whose utility service has not yet been terminated, a payment plan of not less than 4 months including the initial down payment of 25 per cent of the balance owed, and the remaining repayment balance amounts shall be divided equally; provided, however, that the secretary may authorize a repayment period of less than 4 months for good cause. A company making such a request shall notify the customer that the request has been made. This paragraph shall not limit the right of a customer to request a payment plan of more than 4 months or limit the authority of the secretary to order a payment plan of more than 4 months either on an individual basis or through revisions to its billing and termination regulations.

SECTION 459. Notwithstanding any general or special law to the contrary, the secretary of executive office of energy affairs shall, in conjunction with the public utilities commission implement a “pay as you save” pilot program, allowing electric utility customers to purchase and install renewable energy products in their residences or commercial facilities, by paying the cost of the system over time through an additional charge on the customer's electricity bill. The cost of the products purchased under the pilot program shall be added to the electric utility customer's utility bills, as a monthly PAYS tariff, and shall be paid until the cost of purchase and installation of the products is paid off. The payment structure shall be implemented so that the charge on the electric utility customer's utility bill shall be less than the energy savings of that customer over the course of each given year. Non-payment by the owner of the PAYS tariff shall result in disconnection, and a utility shall be entitled to recover the debt.

The pilot program shall be established with a minimum of 50 participants and a maximum of 200 participants. The maximum project size for the program shall be \$1,000 for commercial utility customers and \$500 for residential utility customers. Portable electrical cost measures shall not be funded. “Quick pay”

options shall be explored, allowing customers to have the option to pay off the entire balance of the amount financed on the first billing cycle. The program shall be funded from a percentage of the systems-benefit-charge funded energy efficiency budget as determined by the secretary that shall be used to offset the cost of the program for the utilities, and as such payments for the purchases are paid to said utilities.

The pilot program shall be implemented no later than July 1, 2007 and shall expire on December 31, 2007.

SECTION 460. Notwithstanding any general or special law to the contrary, the secretary of the executive office of energy affairs shall establish a 2 year pilot program providing smart meters to residential and commercial industrial customers along with implementation of phone and e-mail notification systems to warn those customers of high prices so they can reduce their usage accordingly.

The secretary of the executive office of energy affairs shall establish a demand-response pilot program providing commercial and residential consumers with the necessary equipment to participate in such a program.

The program shall provide 5,000 smart meters to residential and commercial participants. This shall be a 2 year pilot program beginning in November 1, 2007 and ending on November 1, 2009. The secretary of energy shall direct electric utilities located in the commonwealth to install meters capable of recording hourly energy use at the service location of each customer that elects real-time pricing. In addition to providing 5,000 meters, the secretary of energy shall direct the electric utilities to implement phone and e-mail notification systems to participants necessary for participation in the pilot program. This pilot program is intended to help consumers lower their monthly utility bills and reduce electricity demand.

Following the completion of the pilot program, the secretary of energy shall submit a report to the house and senate no later than February 1, 2010 detailing the operation and results of the program, including information concerning changes in customers' energy use patterns, an assessment of the value of the program to both participants and non-participants, and recommendations concerning modification of the program.

SECTION 461. Notwithstanding any general or special law to the contrary, the department of utility regulation and oversight shall open an investigation into the efficiency of the existing electric and gas utility rate structure including, but not limited to, the practice of coupling utility profits with the volume of commodity sales and into standby rates and other rates and charges levied by electric utilities to determine if said rates and charges constitute a barrier to the increased development, construction or use of renewable or alternative energy technologies in the commonwealth. The department shall report its findings

together with recommendations for legislation, if any, no later than March 1, 2008. Said report shall be filed with the clerk of the house of representatives, the clerk of the senate and the chairs of the joint committee on telecommunications, utilities and energy.

SECTION 462. (a) Notwithstanding any general or special law to the contrary, there shall be established an integrated bio-fuels research and development consortium within the University of Massachusetts. The consortium shall consist of the President of the University of Massachusetts, or his designee, the secretary of the executive office of energy affairs established pursuant to chapter 6C of the General Laws, or his designee, the undersecretary of the executive office of energy affairs for alternative and renewable energy development established pursuant to said chapter 6C, interested representatives of the bio-fuel industry and members of the faculty and staff from institutions of higher education seeking to promote research and development in the Commonwealth related to the bio-fuels industry.

The purpose of the consortium shall be to enable state government, academic and industry collaboration in research to accelerate the development of bio-fuels, specifically an increased understanding of fundamentals of bio-fuels production and optimized methods of production of premium bio-fuels from regionally available feed stocks. The consortium shall develop a strategic framework to accelerate the development and deployment of commercially viable bio-fuels, and facilitate expansive bio-fuel research throughout the Commonwealth. Said strategic framework shall include, but shall not be limited to, the following: (i) promoting infrastructure for cellulosic feedstock delivery to processing plants and for the distribution of ethanol to motor fuel distributors; (ii) assisting in the expedited siting and permitting of ethanol or bio-diesel manufacturing or distribution facilities within the Commonwealth; (iii) providing a repository for information relevant to prospective bio-fuel related developers; (iv) identifying public lands available for energy crop cultivation; (v) conducting outreach to owners of private farm land for cultivation of energy crops; (vi) fostering the development of a market for energy crops; (vii) identifying potential matching grants from the private sector to supplement the grants provided to the consortium

(b) The consortium shall qualify, and may apply, for a grant from the Massachusetts Clean Energy Trust Fund established pursuant to section xx of chapter 6C of the General Laws.

(c) The consortium shall annually, no later than December 31, submit a report on the activities of the consortium to the clerk of the house of

representatives, the clerk of the senate, the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies and the chairs of the joint committee on telecommunications, utilities and energy. The annual report shall include: (i) a list of grant or loan recipients from the fund; (ii) the associated amounts received by each recipient; (iii) the amount of non-state funding leveraged by the consortium; (iv) the purpose of the grants or loans from the by the consortium; (v) an annual statement of cash inflows and outflows detailing the sources and uses of revenue generated by the consortium; (vi) a detailed breakdown of the purposes and amounts of administrative costs charged to the consortium and (vii) recommendations on whether the Commonwealth should explore additional incentives to promote bio-fuel development, including but not limited to, whether the Commonwealth should explore tax deductions, tax credits, additional grant programs or state mandates.

SECTION 463. Notwithstanding any general or special law to the contrary, there shall be established a special commission to study the siting and commercialization of bio-fuel manufacturing facilities and the environmental, transportation and other legal and regulatory changes necessary to promote the expansion of service stations to provide bio-fuels for vehicles and energy generation facilities in the commonwealth. Said commission shall consist of the following members: the secretary of the executive office of energy affairs or his designee, who shall serve as the chairman of the commission; the secretary of the executive office of transportation and construction or his designee; the secretary of the executive office of environmental affairs or his designee; the secretary of the executive office of economic development or his designee; the commissioner of the department of environmental protection; the house and senate chairmen of the joint committee on telecommunications, utilities and energy; the house and senate chairmen of the joint committee on economic development and emerging technologies; and 10 members to be appointed by the governor, 1 of whom shall be a representative of the automotive industry, 1 of whom shall be a representative of the service station industry, 1 of whom shall be a member of the associated industries of Massachusetts, 2 of whom shall be representatives of an environmental protection organization, 2 of whom shall be representatives of a bio-fuels organization or business, 1 of whom shall be a representative of the Massachusetts technology collaborative, 1 of whom shall be a representative of the Massachusetts development finance agency and 1 of whom shall be a representative of the Massachusetts alliance for economic development.

The commission shall annually, no later than December 31, submit a report on the activities of the commission to the clerk of the house of representatives, the clerk of the senate, the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic

development and emerging technologies and the chairs of the joint committee on telecommunications, utilities and energy.

SECTION 464. The secretary shall develop a plan to reduce total energy consumption in the commonwealth by at least 10 per cent by 2017 through the development and implementation of the energy efficiency and green communities program that utilize renewable energy, demand reduction, conservation and energy efficiency. The secretary shall annually, no later than September 1st, establish an annual reduction target for the commonwealth for the following calendar year.